



**HOUSING AUTHORITY
of the County of Los Angeles**

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Commissioners

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Executive Director

March 12, 2019

The Honorable Board of Commissioners
Housing Authority of the
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Dear Commissioners:

ADOPTED

BOARD OF SUPERVISORS
COUNTY OF LOS ANGELES

1-H March 5, 2019

CELIA ZAVALA
EXECUTIVE OFFICER

**AWARD A CONSTRUCTION CONTRACT TO KISBA CONTRACTING, INC. FOR A UNIT
FLOORING REPLACEMENT PROJECT AT THE SOUTH BAY GARDENS SENIOR PUBLIC
HOUSING DEVELOPMENT
(DISTRICT 2) (3 VOTE)**

SUBJECT

This letter recommends award of a Construction Contract (Contract) to Kisba Contracting, Inc. for floor replacement and associated work at the South Bay Gardens senior public housing development, located at 230 E. 130th Street in unincorporated Los Angeles County.

IT IS RECOMMENDED THAT THE BOARD:

1. Find that the approval of the Contract and the proposed Project for floor replacement and associated work at the South Bay Gardens senior public housing development is exempt from the provisions of the California Environmental Quality Act (CEQA) for the reasons stated in this letter and the record of the Project.
2. Approve the proposed Project and adopt the plans and specifications that are on file in the Construction Management Unit of the Community Development Commission (CDC) for construction of the Project.
3. Authorize the Executive Director, or her designee, to award and execute a Contract in the amount of \$405,960 with Kisba Contracting, Inc., the apparent lowest responsive and responsible bidder, for floor replacement and associated work at the South Bay Gardens senior public housing development in unincorporated Los Angeles County, following receipt of the acceptable Faithful Performance and Labor and Material Bonds and insurance filed by the Contractor.

4. Authorize the Executive Director or her designee, upon her determination and as necessary and appropriate, to amend the contract, or to terminate the contractor's right to proceed with the performance of the Contract or to terminate the Contract for convenience.
5. Authorize the Executive Director or her designee to approve Contract change orders not to exceed \$81,192, which represents 20% of the contract amount, for unforeseen project costs.
6. Authorize the Executive Director to fund the Contract and contingency with a total of \$487,152 in Community Development Block Grant (CDBG) funds allocated to the Second Supervisorial District by the U.S. Department of Housing and Urban Development (HUD) and to incorporate all funds into the Housing Authority's approved Fiscal Year 2018-2019 budget, as needed.
7. Determine that the proposed Project is exempt from the application of the County's Local Targeted Worker Hire Policy because it is wholly funded with Federal funds, which prohibit geographic preferences.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The approval of the recommended actions will award a Contract for unit flooring replacement in 100 dwelling units, including removal of existing flooring and base, subfloor preparation, installation of new carpet, resilient flooring, vinyl floor base, and all other associated work at the South Bay Gardens senior public housing development.

FISCAL IMPACT/FINANCING

There is no impact on the County general fund. The Housing Authority will fund the improvements with up to \$405,960 in CDBG funds allocated to the Second Supervisorial District by HUD.

A 20% contingency, in the amount of \$81,192 is being set aside for unforeseen costs using the same source of funds. This contingency is recommended because completion of floor replacement, and associated work often involves unforeseen conditions or damaged subfloor that extend further than initially identified in the scope of work.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

The South Bay Gardens senior public housing development consists of three story building with a total of 100 units. Floor replacement will be completed at the 100 units. The scope of work for this Contract includes removal of existing flooring and base, subfloor preparation, installation of new carpet, resilient flooring, vinyl floor base, and all other associated work.

The improvements are being federally funded, and will not be subject to the requirements of the Greater Avenues for Independence (GAIN) Program, and the General Relief Opportunity for Work (GROW) Program implemented by the County of Los Angeles. Instead, Kisba Contracting, Inc., will consider hiring Section 3 qualified residents at least 30 percent aggregate new hire positions; and/or subcontract 25 percent or more of the contract amount to Section 3 qualified business concerns. The Housing and Community Development Act of 1968, as amended, requires that employment and other economic opportunities generated by certain HUD assistance be directed to low- and very low-income persons, particularly to persons who are recipients of HUD housing assistance. This project is exempt from the application of the County's Local Targeted Worker Hire Policy because it is wholly

funded with federal funds, which prohibit geographic preferences.

The Housing Authority partners with the Los Angeles County Workforce Development, Aging and Community Services (WDACS) to implement a workforce development program at public housing developments located in the 1st, 2nd, 3rd and 5th Supervisorial Districts. Residents who participate are provided with employment and supportive services through a network of Los Angeles County America's Job Centers of California (AJCC).

The Contract has been approved as to form by County Counsel and executed by the apparent lowest responsive and responsible bidder, Kisba Contracting, Inc. On February 27, 2019, the Housing Commission recommended approval of the Contract award to Kisba Contracting, Inc.

ENVIRONMENTAL DOCUMENTATION

Pursuant to 24 Code of Federal Regulation, Part 58, Section 58.35 (a) (3) (ii), this project is excluded from the National Environmental Policy Act (NEPA), because it involves activities that will not alter existing environmental conditions.

The proposed Project is categorically exempt from the California Environmental Quality Act (CEQA). The Project, flooring replacement, including removal of existing flooring and base, subfloor preparation, installation of new carpet, resilient flooring, vinyl floor base, and all other associated work, is within a class of projects that have been determined not to have a significant effect on the environment in that it meets the criteria set forth in Section 15301 and 15302 of the CEQA Guidelines and Classes 1 and 2 of the County's Environmental Document Reporting Procedures and Guidelines, Appendix G. In addition, the project is not in a sensitive environment, and there are no cumulative impacts, unusual circumstances, or other limiting factors that would make the exemption inapplicable based on the project records. The project will not adversely affect natural watercourses, wetlands, environmentally sensitive areas, remove scenic resources, remove rare plants or mature trees. Upon your Board's approval of the proposed Project, we will file a Notice of Exemption with the County Clerk in accordance with Section 15062 of the State CEQA Guidelines.

CONTRACTING PROCESS

On December 4, 2018, the Housing Authority initiated an outreach to identify a contractor to complete the work at the subject property. Invitations for Bids were electronically sent to all 395 Class B licensed contractors identified from the CDC's vendor list. Advertisements also appeared in the Dodge Green Sheet, and on the County WebVen and CDC websites.

On January 3, 2019, two bids were received and formally opened. The lowest bidder, Kisba Contracting, Inc., was determined to be the lowest responsive and responsible and is being recommended for the Contract award.

The Summary of the Outreach Activities is provided in Attachment A.

IMPACT ON CURRENT SERVICES (OR PROJECTS)

Approval of the recommended actions will allow for flooring replacement at the South Bay Gardens senior public housing development and allow the Housing Authority to continue providing residents with modest affordable housing.

The Honorable Board of Commissioners

3/12/2019

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Respectfully submitted,

A handwritten signature in black ink, appearing to read "Monique King-Viehlend". The signature is fluid and cursive, with a large initial "M" and a long, sweeping underline.

MONIQUE KING-VIEHLAND

Executive Director

MKV:DS:TR

Enclosures

ATTACHMENT A

Summary of Outreach Activities

On December 4, 2018, the following outreach was initiated to identify a contractor for flooring replacement at the South Bay Gardens senior public housing development located at 230 E. 130th Street, Los Angeles, CA 90061.

A. Newspaper Advertising

Announcements appeared in the following local newspaper:

Dodge Green Sheet

An announcement was also posted on the County WebVen and CDC websites

B. Distribution of Bid Packages

The CDC's vendor list was used to email notices to 395 Class B licensed contractors to visit the CDC's website for details and to download the solicitation package. As a result of the outreach, one hundred thirty four bid packages were downloaded from the CDC web site.

C. Pre-Bid Conference and Site Walk

On December 13, 2018, a mandatory pre-bid meeting and site walk was conducted. Nine contractors were in attendance.

D. Bid Results

On January 3, 2019, a total of 2 bids were received and publicly opened. The bid result was as follows:

<u>Engineers' Estimate</u>	\$459,950.00
<u>Company</u>	<u>Bid Amount</u>
Kisba Contracting, Inc.	\$405,960.00
Harry H. Joh Construction, Inc.	\$728,000.00

E. Minority/Female Participation – Selected Contractor

<u>Name</u>	<u>Ownership</u>	<u>Employees</u>
Kisba Contracting, Inc.	Minority Women No County certification	Total: 2 1 Minorities 1 Woman 50% Minorities 50% Women

F. Minority/Female Participation – Contractors Not Selected

<u>Name</u>	<u>Ownership</u>	<u>Employees</u>
Harry H. Joh Construction, Inc.	Minority No County certification	Total: 26 25 Minorities 6 Women 96% Minorities 23% Women

The Housing Authority conducts ongoing outreach to include minorities and women in the contract award process, including: providing information at local and national conferences; conducting seminars for minorities and women regarding programs and services; advertising in newspapers to invite placement on the vendor list; and mailing information to associations representing minorities and women. The above information has been voluntarily provided to the Housing Authority.

The recommended award of the contract is being made in accordance with the Housing Authority's policies and federal regulations, and without regard to race, creed, color, or gender.

ATTACHMENT B

Contract Summary

Project Name: South Bay Gardens Unit Flooring Replacement Project
Location: 230 E. 130th Street, Los Angeles, CA 90061
Bid Number: CDC 18-140
Bid Date: January 3, 2019
Contractor: Kisba Contracting, Inc.
Services: Includes removal of existing flooring and base, subfloor preparation, installation of new carpet, resilient flooring, vinyl floor base, and all other associated work in 100 dwelling units

Contract Documents: Section 1.0 – General Conditions and Requirements; Section 2.0 – Instructions to Bidders; Appendices A through H; and all Addenda to the Contract Documents.

Time of Commencement and Completion: The work to be performed under this Contract shall commence within ten (10) days after a Notice to Proceed is received by the Contractor, or on the date specified in the Notice, whichever is later, and shall be completed within **One Hundred and Twenty** (120) calendar days following the required commencement date.

Liquidated Damages: In the event of a breach of contract, the Contractor and his/her sureties shall be liable for, and shall pay to the Housing Authority the sum of **Five Hundred Dollars and Zero Cents (\$500.00)** as liquidated damages for each calendar day of delay, until the Work is accepted by the Owner.

Contract Sum: The Housing Authority shall pay the Contractor for the performance of the Construction Contract subject to additions and deductions by Change Order(s) as provided in the Contract Documents, in current funds, the sum of **Four Hundred and Five Thousand Nine Hundred and Sixty Dollars and Zero Cents (\$405,960.00)**. The Contract Sum is not subject to escalation, includes all labor and material increases anticipated throughout the duration of this Construction Contract.

Contract Contingency: \$81,192.00

**COMMUNITY DEVELOPMENT COMMISSION/
HOUSING AUTHORITY
OF THE COUNTY OF LOS ANGELES**

CONSTRUCTION CONTRACT

FOR

**SOUTH BAY GARDENS
UNIT FLOORING REPLACEMENT**

**230 E. 130TH STREET
LOS ANGELES, CA 90061**

BID NUMBER: CDC18-140

Bid Date: JANUARY 3, 2019

**COMMUNITY DEVELOPMENT COMMISSION/
HOUSING AUTHORITY OF THE
COUNTY OF LOS ANGELES**

CONSTRUCTION CONTRACT

This CONSTRUCTION CONTRACT (or "Contract") is made this [day] day of March, 2019, by and between the Community Development Commission/Housing Authority of the County of Los Angeles, a body corporate and politic, hereinafter referred to as the "CDC/Authority" or the "Owner", and Kisba Contracting, Inc., hereinafter referred to as the "Contractor".

WITNESSETH, that the Owner and the Contractor, for the consideration stated herein, mutually agree as follows:

- A. The CDC/Authority is the Owner of that certain real property, commonly known as the South Bay Gardens Senior Public Housing Development, located at 230 E. 130th Street, Los Angeles, CA 90061, hereinafter referred to as the "Property".
- B. The term "Work" includes performance, as set forth in the Contract Documents by the Contractor, for all improvement work on, in and about the Properties.
- C. Owner desires the Contractor to perform the Work on the terms and conditions hereinafter set forth, and Contractor agrees to perform said Work on terms and conditions set forth below.

ARTICLE 1
THE CONSTRUCTION CONTRACT

1.1 The Construction Contract means and includes all of the "Contract Documents". The Contract Documents which form the Construction Contract are incorporated herein by this reference and are made a part of this Construction Contract as if fully set forth herein. The Contract Documents consist of the following component parts:

SECTION 1	General Conditions and Requirements
SECTION 2	Instructions to Bidders
Appendix B	Required Forms
Appendix C	Required Notices
Appendix D	HUD Section 3 Provisions
Appendix E	Federal Labor Standards Provisions
Appendix F	General Wage Decision
Appendix G	Technical Specifications
Appendix H	Drawings

ALL ADDENDA TO THE ABOVE CONTRACT DOCUMENTS.

ARTICLE 2
STATEMENT OF WORK

- 2.1 Contractor agrees to perform in a professional manner, to the satisfaction of the CDC/Authority's Executive Director, all Work described in the Contract Documents referenced in Article 1.
- 2.2 The Contractor shall furnish all labor, material, equipment and services and perform and complete all Work required for the project identified as Bid No. CDC18-140 for the CDC/Authority.

All such Work shall be in strict accordance with the Specifications and Drawings, identified as Appendix G & H, all as prepared by the CDC/Authority.

- 2.3 Data provided in the Specifications and Drawings are believed to actually depict the conditions to be encountered by the Contractor, but Owner does not guarantee such data as being all-inclusive or complete in any respect. Nothing contained herein shall relieve Contractor from making any and all investigations through non-destructive observations of the Properties which are reasonably necessary to apprise him/herself of the condition of the Properties. Contractor hereby accepts the project in an "as is" condition and herein warrants that all such investigations have been performed by him/her, and hereby expressly waives any and all rights under this Construction Contract, or in law, to additional compensation and/or time adjustments for alleged unknown subsurface and/or latent conditions that could be reasonably discovered or inferred based upon standard industry construction practices and techniques.

ARTICLE 3
TIME OF COMMENCEMENT AND COMPLETION

- 3.1 The Work to be performed under this Construction Contract shall be commenced within ten (10) days after a Notice to Proceed is received by the Contractor, or on the date specified in the Notice, whichever is later, and shall be completed within **ONE HUNDRED TWENTY** (120) calendar days following the required commencement date.
- 3.2 The Contractor and the Owner agree that, since the determination of actual damages for any delay in completion would be extremely difficult or impracticable to determine in the event of breach of contract, the Contractor and his/her sureties shall be liable for, and shall pay to the Owner the sum of Five Hundred Dollars (\$500.00) as liquidated damages for each calendar day of delay, until the Work is accepted by the Owner. The Contractor shall not be charged with liquidated damages because of any delay in the completion of the Work due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor.

The Owner may withhold, or cause to be withheld, from any monies payable on account of Work performed by the Contractor or subcontractor any accrued liquidated damages, amounts necessary to cover stop notices or alleged labor underpayments.

ARTICLE 4 CONTRACT SUM

- 4.1 The Owner shall pay the Contractor for the performance of the Construction Contract subject to additions and deductions by Change Order(s) as provided in the Contract Documents, in current funds, the sum of **FOUR HUNDRED AND FIVE THOUSAND NINE HUNDRED AND SIXTY DOLLARS** (\$405,960). The Contractor represents and warrants that he/she shall pay his/her employees, and all individuals performing Work, not less than the prescribed minimum wages in accordance with the Prevailing Wage Determination published by the U.S. Department of Labor that is applicable to this contract.
- 4.2 The Contract Sum set forth herein includes the payment by Contractor of all sales and use taxes required by any local codes, or any law existing or which may hereafter be adopted by federal, state or governmental authority, taxing the materials, services required or labor furnished, and of any other tax levied by reason of the Work to be performed hereunder.
- 4.2 The Contract Sum is not subject to escalation, the Contractor having satisfied him/herself with said Contract Price, which includes all labor and material increases anticipated throughout the duration of this Construction Contract.
- 4.3 The Owner's obligation is payable only and solely from funds appropriated from the Department of Housing and Urban Development (HUD) and for the purpose of this Contract. All funds are appropriated every fiscal year beginning July 1.
- 4.4 In the event this Contract extends into the succeeding fiscal year and funds have not been appropriated, this Contract will automatically terminate as of June 30 of the current fiscal year. The Owner will endeavor to notify the Contractor in writing within ten (10) days of receipt of the non-appropriation notice.

ARTICLE 5 PROGRESS PAYMENTS

- 5.1 Based upon applications for payment submitted by the Contractor to the Owner, and after approval by the Construction Management Division, the Owner shall make progress payments on account of the Contract Sum to the Contractor, as provided in the Instruction to Bidders of the Construction Contract.

- 5.2 Approved applications for progress payments will be paid by the thirtieth day of each month, provided that application for payment has been submitted to the Owner on or before the first working day of the month. Payment shall be subject to all provisions of Section 1.27.1 and 1.27.2 of the General Conditions and Requirements incorporated by reference into the Contract.
- 5.3 The Contractor and each Subcontractor shall submit all required Labor Compliance forms to the CDC/Authority before the start of construction. The Contractor shall submit to the CDC/Authority all of its payrolls for each pay period within seven (7) days after the pay period has ended. The Contractor shall also collect, review and submit to the CDC/Authority all of its subcontractors' payrolls for each pay period within seven (7) days after the pay period has ended. Contractor's failure to submit its payrolls or any subcontractor payrolls within seven (7) days after the pay period has ended, is a violation of this Contract and entitles the CDC/Authority to withhold up to ten percent (10%) from any pending progress payment until all such payrolls are received. Repeated, ongoing or flagrant failures by the Contractor to submit the required forms, its payrolls or the payrolls of its subcontractors in a timely manner and in accordance with this provision constitutes a material breach of this Contract which may result in the CDC/Authority terminating the Contract for default.

ARTICLE 6 PROJECT CLOSEOUT

- 6.1 Prior to occupancy of any dwelling unit, building, or other portion of the project, the Owner shall receive a certificate from the Contractor that such portion of the project is ready for occupancy, and shall cause a Notice of Completion to be issued. A Notice of Completion shall be issued only when the Work, including all phases thereof, is finally completed, and all requirements of this Construction Contract have been satisfied. The Owner shall cause the Notice of Completion to be recorded with the County Recorder.
- 6.2 Upon Issuance of a Notice of Completion, final payment shall be made to the Contractor of the entire unpaid balance of the Contract Sum, including any sums due to the Contractor for changes in the Work approved by the Owner pursuant to Section 1.27.5 of the General Conditions and Requirements, less any amounts which Owner is entitled to receive from the Contractor under the terms of this Contract or amounts necessary to cover stop notices or alleged labor underpayments, and less the ten percent (10%) retention withheld, pursuant to Section 1.27.6 of the General Conditions and Requirements.
- 6.3 In addition to all other requirements, a Notice of Completion shall be issued only when Owner has received the following:
- A. A Certificate of Completion, executed by Owner.

- B. All guarantees and warranties issued by the manufacturers or installers of equipment or other component parts of the project. Contractor guarantees that the equipment, materials, and workmanship, not otherwise covered by a guarantee or warranty, will be free from defects in materials and workmanship for a period of one (1) year following date of final acceptance of the project.
 - C. The waiver and release of all liens, claims of liens, or stop notice rights of the Contractor and all subcontractors, and the Contractor's Certificate and Release.
 - D. Verification from the Architect that Contractor has removed all waste materials, rubbish, tools, construction equipment, machinery, and surplus materials from the project site. If the Contractor has failed to remove any of such items, the Owner may remove such items, and the Contractor shall pay the Owner for all costs incurred in connection with such removal.
- 6.4 After recordation of the Notice of Completion, and expiration of the thirty-day period for filing of stop notices, the Owner shall use reasonable efforts to settle all claims and disputes, notify the Contractor of final acceptance of the project, and make final payment of the entire unpaid balance of the Contract Sum, including the ten percent (10%) retention, less any amounts which the Owner is entitled to receive from the Contractor under the terms of this Construction Contract, including liquidated damages, and less amounts necessary to cover stop notices or alleged labor underpayments.

ARTICLE 7
BREACH AND TERMINATION

- 7.1 Waiver by the Owner of any breach of this Construction Contract shall not constitute a waiver of any other breach or of any future breach. No payment made hereunder shall be construed to be an acceptance of defective Work or improper materials.
- 7.2 In addition to any right of termination reserved to the Owner by Section 1.34.1 of the General Conditions and Requirements of the Construction Contract, the Owner may terminate this Construction Contract or performance under this Construction Contract, if the Contractor is adjudged bankrupt, a receiver is appointed because of the Contractor's insolvency, or the Contractor makes a general assignment for the benefit of its creditors, fails to make prompt payment to subcontractor(s), or for material or labor, persistently disregards laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, fails to construct the project in accordance with the Drawings and Specifications, or otherwise substantially violates any provision of the Contract Documents.

- 7.3 The Owner shall give the Contractor and his/her surety written notice prior to terminating this Construction Contract or performance under this Construction Contract, pursuant to Section 1.34.1 of the General Conditions and Requirements, provided that the Contractor shall, upon receipt of such notice, immediately stop the installation of improvements, or other permanent construction work encompassing part of the project. Upon termination, the Owner may take possession of the project and all materials, equipment, tools, and construction equipment and machinery owned by the Contractor and located at the project site, and may finish the project by whatever method it may deem expedient. In such case, the Contractor shall not be entitled to receive any further payment under this Construction Contract.
- 7.4 The Owner shall not be deemed to have waived any of its other rights or remedies against the Contractor by exercising its right of termination under this Article.
- 7.5 Termination for Cause: This Contract may be terminated by the CDC/Authority upon written notice to the Contractor for cause (failure to perform satisfactorily any of the Contract terms, conditions, and Work items) with no penalties upon termination or upon the occurrence of any of the following events:
- A. Continuing failure of the Contractor to perform any Work required to be performed hereunder in a timely and professional manner, or Contractor is not properly carrying out the provisions of the Contract in their true intent and meaning, then in such case, notice thereof in writing will be served upon the Contractor; and should the Contractor neglect or refuse to provide a means for a satisfactory compliance with this Contract and with the direction of the CDC/Authority within the time specified in such notices, the Housing Authority shall have the power to suspend the performance of this Contract by Contractor in whole or in part.
 - B. Failure on the part of the Contractor to procure or maintain insurance required by this Contract shall constitute a material breach of contract upon which the CDC/Authority may immediately terminate this Contract.
 - C. Should the Contractor fail within five (5) days to perform in a satisfactory manner, in accordance with the provisions of this Contract, or if the Work to be done under said Contract is abandoned for more than three (3) days by the Contractor, then notice of deficiency thereof in writing will be served upon the Contractor. Should the Contractor fail to comply with the terms of said Contract within five (5) days, upon receipt of said written notice of deficiency, the Executive Director of the CDC/Authority shall have the power to suspend or terminate the operations of the Contractor in whole or in part.
 - D. In the event that a petition of bankruptcy shall be filed by or against the Contractor.

E. If, through any cause, the Contractor shall fail to fulfill, in a timely and proper manner, the obligations under this Contract, or if the Contractor shall violate any of the covenants, agreements, or stipulations of this Contract, the CDC/Authority shall thereupon have the right to terminate this Contract by giving written notice to the Contractor of such termination and specifying the effective date thereof, at least five (5) days before the effective date of such termination. In such event, all finished or unfinished documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by the Contractor under this Contract shall, at the option of the CDC/Authority become its property and the Contractor shall be entitled to receive just and equitable compensation for any work satisfactorily completed.

7.6 Termination for Improper Consideration: The CDC/Authority may, by written notice to the Contractor, immediately terminate the right of the Contractor to proceed under this Construction Contract if it is found that consideration, in any form, was offered or given by the Contractor, either directly or through an intermediary, to any CDC/Authority officer, employee or agent with the intent of securing the Contract or securing favorable treatment with respect to the award, amendment or extension of the Contract or the making of any determinations with respect to the Contractor's performance pursuant to the Contract. In the event of such termination, the CDC/Authority shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

The Contractor shall immediately report any attempt by the CDC/Authority officer or employee to solicit such improper consideration. The Report shall be made to the CDC/Authority's Executive Director or designee.

Among other items, such improper consideration may take the form of cash, discounts, service, the provision of travel or entertainment, or tangible gifts.

7.7 Termination for Convenience: The CDC/Authority reserves the right to cancel this Contract for any reason at all upon thirty (30) days prior written notice to Contractor. In the event of such termination, Contractor shall be entitled to a prorated portion paid for all satisfactory work unless such termination is made for cause, in which event, compensation, if any, shall be adjusted in such termination.

7.8 The CDC/Authority's Quality Assurance Plan: The CDC/Authority will evaluate Contractor's performance under this Contract on not less than a quarterly basis. Such evaluation will include assessing Contractor's compliance with all Contract terms and performance standards. Contractor deficiencies which the CDC/Authority determines are severe or continuing and that may place performance of the Contract in jeopardy if not corrected will be reported to the Board of Commissioners. The report will include improvement/corrective action measures taken by the CDC/Authority and the Contractor. If improvement does not occur consistent with the corrective action measures, the CDC/Authority may terminate this Contract or pursue other penalties as specified in this Contract.

7.9 Non-payment after expiration or termination: Contractor shall have no claim against the CDC/Authority for payment of any money or reimbursement, of any kind whatsoever, for any service provided by Contractor after the expiration or other termination of this Agreement. Should Contractor receive any such payment, it shall immediately notify the CDC/Authority and shall immediately repay all such funds to the CDC/Authority. Payment by the CDC/Authority for services rendered after expiration/termination of this Agreement shall not constitute a waiver of the CDC/Authority's right to recover such payment from Contractor. This provision shall survive the expiration or other termination of this Agreement.

ARTICLE 8
MISCELLANEOUS PROVISIONS

8.1 Contractor shall give all notices and comply with all laws, rules, regulations, ordinances and orders of any governmental entity relating to the Work. Should Contractor become aware that any provision of the Construction Contract is at variance with any such rule, law, regulation, ordinance or order, he/she shall promptly give notice in writing to the Owner of such variance.

8.2 It is hereby declared to be the intention of the parties that the sections, paragraphs, sentences, clauses and phrases of this Construction Contract are severable, and if any phrase, clause, sentence, paragraph or section of this Construction Contract shall be declared unconstitutional, invalid or unenforceable by the valid judgment or decree of a court of competent jurisdiction, such unconstitutionality, invalidity or unenforceability shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Construction Contract.

8.3 Anything mentioned in the Specifications and not shown on the Drawings, or shown on the Drawings and not mentioned in the Specifications, shall be of like effect as if shown or mentioned in both. In case of difference between Drawings and Specifications, the Specifications shall govern. In case of discrepancy within the Drawings, or within the Specifications, the matter shall be promptly submitted to the Contracting Officer, who shall promptly make a determination in writing. Any adjustment by the Contractor without such a determination by the Contracting Officer shall be at its own risk and expense. The Contracting Officer shall furnish from time to time such detailed drawings and other information as considered necessary, unless otherwise provided.

ARTICLE 9
CONTRACTOR APPROVAL

9.1 Contractor's Adherence to the Child Support Compliance Program

Contractor shall: 1) fully comply with all applicable State and Federal reporting requirements relating to employment reporting for its employees; and, 2) comply with all lawfully served Wage and Earnings Assignment Orders and Notice of Assignment and continue to maintain compliance during the term of any contract that may be awarded pursuant to this solicitation. Failure to comply may be cause for termination of a contract or initiation of debarment proceedings against the non-compliant contractor.

9.2 Contractor's Warranty of Adherence to Community Development Commission/Housing Authority's Child Support Compliance Program

Contractor acknowledges that the CDC/Authority has established a goal of ensuring that all individuals who benefit financially from the CDC/Authority through a contract, are in compliance with their court-ordered child, family and spousal support obligations in order to mitigate the economic burden otherwise imposed upon the taxpayers of the County of Los Angeles.

As required by the CDC/Authority's Child Support Compliance Program and without limiting Contractor's duty under this Contract to comply with all applicable provisions of law, Contractor warrants that it is now in compliance and shall, during the term of this Contract, maintain compliance with employment and wage reporting requirements as required by the Federal Social Security Act (42 USC Section 653a) and California Unemployment Insurance Code Section 1088.5, and shall implement all lawfully served Wage and Earnings Withholding Orders or Child Support Services Department (CSSD) Notices of Wage and Earnings Assignment for Child or Spousal Support, pursuant to Code of Civil Procedure Section 706.031 and Family Code Section 5246(b).

9.3 Termination For Breach of Warranty to Comply with Community Development Commission/Housing Authority's Child Support Compliance Program

Failure of Contractor to maintain compliance with the requirements set forth in Paragraph 9.2, "Contractor's Warranty of Adherence to County's Child Support Compliance Program" shall constitute default under this Contract. Without limiting the rights and remedies available to the CDC/Authority under any other provision of this Contract, failure of Contractor to cure such default within ninety (90) calendar days of written notice shall be grounds upon which the CDC/Authority may terminate this Contract pursuant to Paragraphs under 7.5- "Termination for Cause" and pursue debarment of Contractor, pursuant to CDC/Authority Policy.

9.4 Post L. A.'s Most Wanted Parents List

Contractor acknowledges that the CDC/Authority places a high priority on the enforcement of child support laws and the apprehension of child support evaders. Contractor understands that it is the CDC/Authority's policy to encourage the CDC/Authority contractors to voluntarily post the CDC/Authority's "L.A.'s Most Wanted: Delinquent Parents" poster in a prominent position at Contractor's place of business. District Attorney will supply Contractor with the poster to be used.

ARTICLE 10
ADDITIONAL PROVISIONS

- 10.1 This Construction Contract and the obligations of the parties hereunder shall be interpreted, construed and enforced in accordance with the laws of the State of California.
- 10.2 This Construction Contract contains the entire agreement between the parties. No variations, modifications, or changes hereto shall be binding upon any party hereto unless set forth in a document duly executed by or on behalf of such party. All prior negotiations, representations and/or contracts between the parties relative to the subject matters hereof shall be superseded hereby and have no further force and effect.
- 10.3 No consent or waiver, expressed or implied, by either party to or of any breach or default by the other of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default in the performance of such other party hereunder. Failure on the part of either party to complain of any such act of the other party or to declare the other party in default, irrespective of how long such failure continues, shall not constitute a waiver by such party of its rights hereunder.
- 10.4 Insurance
In order for the Contractor to meet its obligations and insure its continuance, the Housing Authority, the Community Development Commission of the County of Los Angeles ("Housing Authority"), and the County of Los Angeles ("County"), herein collectively referred to as the "Public Agencies", require that prior to the execution of this Contract, the Contractor must provide evidence that all insurance requirements have been met. Without limiting the Contractor's duties to indemnify and defend as provided in this Contract, the Contractor shall procure and maintain, at the Contractor's sole expense, the insurance policies described herein.

The insurance policies are to contain and be endorsed to contain, the provisions set forth herein. All certificates of insurance and endorsements shall carry the following identifier: Kisba Contracting, Inc., South Bay Gardens Unit Flooring Replacement, 230 E. 130th Street, Los Angeles, CA 90061.

10.4.1 ACCEPTABILITY OF INSURERS

Each insurance policy identified herein shall be secured from carriers admitted in California, or authorized to do business in California. Such carriers shall be in good standing with the California Secretary of State's Office and the California Department of Insurance. Such carriers must be admitted and approved by the California Department of Insurance or must be included on the California Department of Insurance List of Approved

Surplus Line Insurers (hereinafter "LASLI"). Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A:XVII, unless otherwise acceptable to the Entity.

10.4.2 VERIFICATION OF COVERAGE

The Contractor shall furnish the CDC/Authority with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to the CDC/Authority before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The CDC/Authority reserves the right to require complete, certified copies of all insurance policies, including endorsements required by these specifications, at any time.

The Contractor shall, concurrent with the execution of this Contract, deliver to the CDC/Authority certificates of insurance and each year thereafter during the term of this Contract, policy declarations and original endorsements evidencing the insurance coverage required. If original endorsements are not immediately available, such endorsements may be delivered subsequent to the execution of this Contract, but no later than thirty (30) days following execution of this Contract. The certificates and endorsements shall be signed by a person authorized by the insurers to bind coverage on its behalf. The CDC/Authority reserves the right to require complete certified copies of all policies at any time including endorsements required by these specifications. Said insurance shall be in a form acceptable to the CDC/Authority and all deductible amounts must be provided in advance to the CDC/Authority for its approval.

Each insurance policy shall be endorsed to stipulate that the CDC/Authority be given at least thirty (30) days' written notice in advance of any cancellation or any reduction in limit(s) for any policy required herein. The Contractor shall give the CDC/Authority immediate notice of any insurance claim or loss, which may be covered by insurance.

10.4.3 SELF-INSURED RETENTIONS

Any self-insurance program and self-insured retention must be separately approved by the CDC/Authority. In the event such insurance does provide for deductibles or self-insurance, the Contractor agrees that it will defend, indemnify and hold harmless the CDC/Authority of the County of Los Angeles, Community Development Commission of the County of Los Angeles, County of Los Angeles ("County"), and their elected and appointed officers, officials, representatives, employees, and agents in the same manner as they would have been defended, indemnified and held harmless if full coverage under any applicable policy had been in effect. The

CDC/Authority may require the Contractor to provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or the Contractor.

10.4.4 PRIMARY AND NON-CONTRIBUTORY COVERAGE

The insurance policies set forth herein shall be primary insurance and non-contributory with respect to the CDC/Authority. For any claims related to this contract, the Contractor's insurance coverage shall be primary insurance; primary coverage at least as broad as ISO CG 20 01 04 13 as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Housing Authority, Commission, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

10.4.5 WAIVER OF SUBROGATION

The insurance policies shall contain a waiver of subrogation for the benefit of the Housing Authority and Commission. The Contractor hereby grants to the Housing Authority and Commission a waiver of any right to subrogation, which any insurer of said Contractor may acquire against the Housing Authority or Commission by virtue of the payment of any loss under such insurance. The Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the Housing Authority or Commission has received a waiver of subrogation endorsement from the insurer.

10.4.6 INSURANCE COMPLIANCE

Failure on the part of the Contractor, and/or any entities with which the Contractor contracts, to procure or maintain the insurance coverage required herein may, upon the CDC/Authority's sole discretion, constitute a material breach of this Contract pursuant to which the CDC/Authority may immediately terminate this Contract and exercise all other rights and remedies set forth herein, at its sole and absolute discretion, and without waiving such default or limiting the rights or remedies of the Housing Authority or Commission, procure or renew such insurance and pay any and all premiums in connection therewith and all monies so paid by the CDC/Authority shall be immediately repaid by the Contractor to the CDC/Authority upon demand including interest thereon at the default rate. In the event of such a breach, the CDC/Authority shall have the right, at its sole election, to participate in and control any insurance claim, adjustment, or dispute with the insurance carrier. The Contractor's failure to assert or delay in asserting any claim shall not diminish or impair the CDC/Authority's rights against the Contractor or the insurance carrier.

10.4.7 RELEASE OF LIABILITY

Without affecting any other rights or remedies, the Contractor hereby releases and relieves each the Housing Authority, Commission, and the County and waives its entire right to recover damages (whether in contract or in tort) against the Housing Authority or Commission, for loss or damage to property arising out of or incident to the perils required to be insured against under this section. The effect of such release and waiver of the right to recover damages shall not be limited by the amount of insurance carried or required or by any deductibles applicable thereto. The Contractor agrees to have its respective insurance companies issuing property damage insurance waive any right to subrogation that such companies may have against the Housing Authority, Commission, and County.

10.4.8 SUBCONTRACTORS

The Contractor shall require and verify that all subcontractors with which Contractor contracts, shall maintain insurance meeting all the requirements stated herein. The Contractor shall verify and ensure that the Housing Authority and Commission is named an additional insured on insurance, endorsements and waivers required from subcontractors in relation to the property or project that is the subject of this Contract. For CGL coverage subcontractors shall provide coverage with a form at least as broad as CG 20 38 04 13.

10.4.9 CLAIMS MADE POLICIES

If any of the required policies provide coverage on a claims-made basis:

1. The Retroactive Date must be shown and must be before the date of the Contract or the beginning of contract work/services.
2. Insurance must be maintained and evidence of insurance must be provided **for at least five (5) years after completion of the Contract of work/services.**
3. If coverage is canceled or non-renewed, and not **replaced with another claims-made policy form with a Retroactive Date** prior to the Contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of **five (5)** years after completion of Contract work/services.

10.4.10 SPECIAL RISKS OR CIRCUMSTANCES

The CDC/Authority reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

10.4.11 MINIMUM SCOPE AND LIMITS OF INSURANCE:

The following insurance policies shall be maintained by the Contractor and any entity with which the Contractor contracts for the duration of this

Contract, unless otherwise set forth herein. Coverage shall be at least as broad as:

A. GENERAL LIABILITY INSURANCE (written on ISO policy form CG 00 01 or its equivalent) covering CGL on an "Occurrence" basis, including products and completed operations, coverage for bodily injury, personal injury, property damage, and contractual liability. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit with limits of not less than the following:

- General Aggregate\$2,000,000
- Products/Completed/On-Going Operations Aggregate....\$2,000,000
- Personal and Advertising Injury.....\$1,000,000
- Each Occurrence.....\$1,000,000

A.1 Additional Insured Endorsement: The Housing Authority, Commission, the County, its officers, officials, employees, agents and volunteers ("Public Agencies and their Agents"), shall be named and covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the Contractor including materials, parts, or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 forms if later revisions used).

A.2 Primary and Non-contributory Endorsement: The insurance policies set forth herein shall contain an endorsement providing primary and non-contributory insurance coverage with respect to the Housing Authority, Commission and County.

A.3 Products, Completed and Ongoing Operations Endorsement:
The insurance policies set forth herein shall contain an endorsement providing primary and non-contributory insurance coverage with respect to the Housing Authority, Commission and County.

A.4 Waiver of Subrogation: The insurance policies shall contain a waiver of subrogation for the benefit of the Housing Authority, Commission and County.

B. COMMERCIAL AUTOMOBILE LIABILITY INSURANCE (written on ISO policy form CA 00 01 or its equivalent) with a limit of liability of not less than \$1 million for each incident. Such insurance shall include coverage of all “owned”, “hired” and “non-owned” vehicles, or coverage for “any auto”.

C. WORKERS’ COMPENSATION and EMPLOYER’S LIABILITY insurance providing worker’s compensation benefits, as required by the Labor Code of the State of California. This must include a waiver of subrogation in favor of the Housing Authority, Commission, County and their Agents. In all cases, the above insurance also shall include Employer’s Liability coverage with limits of not less than the following:

- Each Accident.....\$1,000,000
- Disease-policy limit\$1,000,000
- Disease-each employee\$1,000,000

C.1 Waiver of Subrogation: The insurance policies shall contain a waiver of subrogation for the benefit of the Housing Authority, Commission and County.

D. POLLUTION LIABILITY INSURANCE and or Asbestos Pollution Liability and/or Errors & Omissions applicable to the work being performed including coverage for bodily injury, personal injury, death, property damages, and environmental damage with limits of not less than the following:

- General Aggregate.....\$1,000,000
- Completed Operations\$1,000,000
- Each Occurrence\$500,000

Said policy shall also include, but not be limited to: coverage for any and all remediation costs, including, but not limited to, brownfield restoration and clean-up costs, and coverage for the removal, repair, handling, and disposal of asbestos and/or lead containing materials where applicable. The Housing Authority, Commission, County and their Agents shall be covered as additional insureds on the pollution liability insurance policy. If the general liability insurance policy and/or the pollution liability insurance policy is written on a claims-made form, then said policy or policies shall also comply with all of the following requirements:

D.1 The retroactive date must be shown on the policy and must be before the date of this Contract or the beginning of the work or services that are the subject of this Contract;

- D.2 Insurance must be maintained and evidence of insurance must be provided for the duration of this Contract or for five (5) years after completion of the work or services that are the subject of this Contract, whichever is greater;
- D.3 If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Contract, then the Contractor must purchase an extended period coverage for a minimum of five (5) years after completion of work or services that are the subject of this Contract;
- D.4 A copy of the claims reporting requirements must be submitted to the Housing Authority for review; and
- D.5 If the work or services that are the subject of this Contract involve lead based paint or asbestos identification/remediation, then the Contractors Pollution Liability shall not contain any lead-based paint or asbestos exclusions. If the services involve mold identification / remediation, the Contractors Pollution Liability shall not contain a mold exclusion and definition of "Pollution" shall include microbial matter including mold.

E. BONDING

The insurance and bonding procedures shall be conducted in full compliance with Federal standards as stated in 24 CFR 85.36, all state and county laws and procedures, other Governmental Restrictions. The bonding coverage shall include a Bid Bond, Performance Bond, Payment Bond, Maintenance Bond and Completion Guaranty for construction or facility improvement contracts exceeding \$100,000.

The Payment Bond and the Performance Bond shall be in a sum equal to the contract price. If the Performance Bond provides for a one-year warranty, a separate Maintenance Bond is not necessary. If the warranty period specified in the contract is for longer than one year a Maintenance Bond equal to 10% of the contract price is required. Bonds shall be duly executed by a responsible corporate surety, authorized to issue such bonds in the State of California and secured through an authorized agent with an office in California.

The CDC/Authority shall require for any Construction Contract, that the Contractor shall procure and maintain at the Contractor's expense (and require all subcontractors and sub-subcontractors to procure and maintain at their expense) for the duration of the Construction Contract, or for a longer period as indicated, the insurance coverage required in this Contract, against claims for injuries to persons or damage to

property which may arise from or in connection with the performance of the work by the Contractor, its agents, representatives, employees, subcontractors or sub-subcontractors, and that the Contractor and all subcontractors and sub-subcontractors shall otherwise meet the insurance requirements set forth therein.

10.5 Compliance With Laws

The Contractor agrees to be bound by applicable federal, state and local laws, regulations, and directives as they pertain to the performance of this Contract. This Contract is subject to and incorporates the terms of the Housing and Community Development Act of 1974, as amended by the Cranston-Gonzalez National Affordable Housing Act, 1990, and the 24 CFR Part 85. If the compensation under this Contract is in excess of \$100,000 then Contractor shall comply with applicable standards, orders, or requirements issued under section 306 of the Clean Air Act (42 U.S.C. 18579(h)), section 508 of the Clean Water Act (33 U.S.C. 1368), Executive Order 11738, and Environmental Protection Agency Regulations (40 CFR part 15).

The Contractor must obtain and present all relevant state and local insurance, training and licensing pursuant to services required within this Contract.

The Contractor shall comply with the following laws:

Civil Rights Act of 1964, Title VI (Non-discrimination in Federally Assisted Programs)

Title VI provides that no person shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.

Section 109 of the Housing and Community Development Act of 1974

No person in the United States shall on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973

No person in the United States shall be excluded from participating in, be denied the benefits of, or be subjected to discrimination under this Contract on the basis of age or with respect to an otherwise qualified disabled individual.

Executive Order 11246 and 11375, Equal Opportunity in Employment (Nondiscrimination in Employment by Government Contractors, Subcontractors, and Contractors)

During the performance of this Contract, the Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. The Contractor will take affirmative action to ensure that

applicants are employed, and that employees are treated fairly during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting officer setting forth the provisions of this nondiscrimination clause. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex or national origin.

The Contractor will send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided by the CDC/Authority's contracting officer, advising the labor union or workers' representatives of the Contractor's commitments under Section 202 of Executive Order No. 11246 of September 24, 1965, and shall post copies of the notice in conspicuous places available to employees and applicants for employment. The Contractor will comply with all provisions of Executive Order No. 11246 of September 24, 1965, and of the rules, regulation and relevant orders of the Secretary of Labor.

The Contractor will furnish all information and reports required by the Executive Order No. 11246 of September 24, 1965, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, will permit access to his/her books, records, and accounts by the CDC/Authority and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

In the event of the Contractor's noncompliance with the nondiscrimination clauses of this Contract or with any of such rules, regulations or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Contractor may be declared ineligible for further Government contracts in accordance with procedures authorized in the Executive Order and such other sanctions may be imposed and remedies invoked as provided in the Executive Order or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

The Contractor will include the provisions of these paragraphs in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of the Executive Order No. 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Contractor will take such actions with respect to any subcontract or purchase order as the CDC/Authority may direct as a means of enforcing such provisions including sanctions for noncompliance; provided however, that in the event the Contractor becomes involved in, or is threatened with litigation with a subcontractor or vendor as a result of such direction by the

CDC/Authority, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

Federal Lobbyist Requirements

The Contractor is prohibited by the Department of Interior and Related Agencies Appropriations Act, known as the Byrd Amendments, and HUD's 24 CFR Part 87, from using federally appropriated funds for the purpose of influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, loan or cooperative Contract, and any extension, continuation, renewal, amendment or modification of said documents.

The Contractor must certify in writing on the Federal Lobbyist Requirements Certification form that they are familiar with the Federal Lobbyist Requirements and that all persons and/or subcontractors acting on behalf of the Contractor will comply with the Lobbyist Requirements.

Failure on the part of the Contractor or persons/subcontractors acting on behalf of the Contractor to fully comply with the Federal Lobbyist Requirements may be subject to civil penalties.

Federal Davis-Bacon Requirements

This construction project is funded in whole or in part with Federal funds. Federal Labor Standard Provisions, including prevailing wage requirements of the Davis-Bacon and Related Act (DBRA) will be enforced. See Section 01003, paragraphs 2.09, 3.13, and 3.21 in Part A, "Instruction to Bidders and general Conditions for Construction Contract," of this Contract.

The applicable wage determination for this project is General Wage Decision CA180028, Modification #9, dated in this format: 05/25/2018.

Section 3 of the Housing and Community Development Act of 1968, as Amended requires that to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in or owned in substantial part by persons residing in the area of the project.

- A. The work to be performed under this Contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

- B. The parties to this Contract agree to comply with HUD's regulations in 24 CFR Part 135, which implement Section 3. As evidenced by their execution of this Contract, the parties to this Contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 135 regulations.
- C. The Contractor agrees to send to each labor organization or representative of workers with which the Contractor has a collective bargaining Contract or other understanding, if any, a notice advising the labor organization or workers' representative of the Contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
- D. The Contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 135, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 135. The Contractor will not subcontract with any subcontractor where the Contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 135.
- E. The Contractor will certify that any vacant employment positions, including training positions, that are filled (i) after the Contractor is selected but before the Contract is executed, and (ii) with persons other than those to whom the regulations of 24 CFR Part 135 require employment opportunities to be directed, were not filled to circumvent the Contractor's obligations under 24 CFR Part 135.
- F. Noncompliance with HUD's regulations in 24 CFR Part 135 may result in sanctions, termination of this Contract for default, and debarment or suspension from future HUD assisted contracts.

With respect to work performed in connection with Section 3 covered Indian Housing Assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this Contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises.

Parties to this Contract that are subject to the provisions of Section 3 and section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with section 7(b).

10.6 Access and Retention of Records

The Contractor shall provide access to the CDC/Authority, the Federal grantor agency, the Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers and records of the Contractor which are directly pertinent to the specific Contract for the purpose of making audits, examinations, excerpts and transcriptions. The Contractor is required to retain the aforementioned records for a period of five (5) years after the CDC/Authority pays final payment and other pending matters are closed.

10.7 Conflict of Interest

The Contractor represents, warrants and agrees that to the best of its knowledge, it does not presently have, nor will it acquire during the term of this Contract, any interest direct or indirect, by contract, employment or otherwise, or as a partner, joint venturer or shareholder (other than as a shareholder holding a one percent (1%) or less interest in publicly traded companies) or affiliate with any business or business entity that has entered into any contract, subcontract or arrangement with the CDC/Authority. Upon execution of this Contract and during its term, as appropriate, the Contractor shall disclose in writing to the CDC/Authority, any other contract or employment during the term of this Contract by any other persons, business or corporation in which employment will or may likely develop a conflict of interest between the CDC/Authority's interest and the interests of the third parties.

10.8 Indemnification

The Contractor ("Indemnitor") shall indemnify, defend and hold harmless the Community Development Commission of the County of Los Angeles, Housing Authority of the County of Los Angeles, the County of Los Angeles, and each of their elected and appointed officers, officials, representatives, employees, successors, assigns, predecessors, lenders, accountants, attorneys, and agents (each an "Indemnitee") from and against any and all liability, demands, damages, claims, causes of action, judgments, awards, expenses, and fees (including reasonable attorneys', experts' and consultants' fees) including, but not limited to, claims for bodily injury, property damage, loss of income, pain and suffering, emotional and psychological distress, and death, that arises from, pertains to, or relates to (whether in whole or in part) the acts, errors, or omissions of Indemnitor, Indemnitor's agent(s), representative(s), employee(s), or any third party with whom Indemnitor directly contracts with (or for whom Indemnitor is otherwise legally responsible for) in connection with the performance of Indemnitor's obligations under this Contract (collectively, the "Indemnified Liabilities"). If Indemnitor is a "design professional" within the meaning of *Civil Code* § 2782.8, Indemnitor shall only be required to indemnify and defend Indemnitee to the extent that the claims arise from, pertain to, or relate to the negligence, recklessness, or willful

misconduct of the Indemnitor. Notwithstanding anything to the contrary, Indemnitor shall only be required to indemnify a particular Indemnitee to the extent that the Indemnified Liabilities was not caused by the sole negligence, active negligence or willful misconduct of that Indemnitee. Indemnitor agrees to require each and every third party with whom Indemnitor directly contracts with (or for whom Indemnitor is otherwise legally responsible for) to be considered an additional "Indemnitor" under this provision and to separately agree to indemnify, defend, and hold harmless each Indemnitee for the work, materials, and services provided by that third party as required under this provision. The parties intend for this provision to not violate any applicable laws (including *Civil Code* §§ 2782 *et. seq.*) and, to the fullest extent permitted by law, this provision shall be interpreted in such a manner. In the event of a conflict between this provision and any other provision in this Contract or any other contract between Indemnitor and Indemnitee, this provision shall govern. This provision shall survive the termination or expiration of the Contract and will continue to remain in full force and effect for ten years from substantial completion of Indemnitor's services, work, or provision of materials, or until all applicable statutes of limitations for the Indemnified Liabilities have expired, whichever is longer.

COMMUNITY DEVELOPMENT COMMISSION/HOUSING AUTHORITY MUTUAL INDEMNITY

The Contractor shall indemnify, defend, and hold harmless the CDC/Authority of the County of Los Angeles (Housing Authority), the Community Development Commission of the County of Los Angeles, and their officials, officers, employees, and agents (hereinafter collectively "Public Entities") from and against any and all liability, demands, damages, claims, causes of action, fees, and expenses (including reasonable attorneys' fees, expert witness fees, and legal costs) including, but not limited to, claims for bodily injury, property damage, and death (hereinafter collectively referred to as "liabilities") arising from or connected with the Contractor's acts, errors, and/or omissions under this contract or the services to be provided by the Contractor hereunder. The Contractor shall not be required to indemnify, defend, and hold harmless the Public Entities from any liabilities that are caused by the sole negligence or willful misconduct of the CDC/Authority or its officials, officers, employees, or agents.

The CDC/Authority of the County of Los Angeles shall indemnify, defend, and hold harmless the Contractor and its officials, officers, employees, and agents from and against any and all liability, demands, damages, claims, causes of action, fees, and expenses (including reasonable attorneys' fees, expert witness fees, and legal costs) including, but not limited to, claims for bodily injury, property damage, and death (hereinafter collectively referred to as "liabilities") arising from or connected with the CDC/Authority's acts, errors, and/or omissions under this contract or the services to be provided by the CDC/Authority hereunder. The CDC/Authority shall not be required to indemnify, defend, and hold harmless the Contractor or its officials, officers, employees, or agents from any liabilities that are caused by the sole negligence or willful misconduct of the Contractor or its officials, officers, employees, or agents.

10.9 Subcontracting

The Contractor may subcontract only those specific portions of the work allowed in the original specifications covered by this Contract with prior written approval by the CDC/Authority.

10.10 Assignment

The Contractor shall not assign its rights or delegate its duties under the Contract, or both, whether in whole or in part, without the prior written consent of the CDC/Authority, in its discretion, and any attempted assignment or delegation without such consent shall be null and void. For purposes of this paragraph, CDC/Authority consent shall require a written amendment to the Contract, which is formally approved and executed by the parties. Any payments by the CDC/Authority to any approved delegate or assignee on any claim under the Contract shall be deductible, at the CDC/Authority's sole discretion, against the claims, which the Contractor may have against the CDC/Authority. However, the CDC/Authority reserves the right to assign this Contract to another public agency without the consent of the Contractor.

Shareholders, partners, members, or other equity holders of the Contractor may transfer, sell, exchange, assign, or divest themselves of any interest they may have therein. However, in the event any such sale, transfer, exchange, assignment, or divestment is affected in such a way as to give majority control of the Contractor to any person(s), corporation, partnership, or legal entity other than the majority controlling interest therein at the time of execution of the Contract, such disposition is an assignment requiring the prior written consent of the CDC/Authority in accordance with applicable provisions of this Contract.

Any assumption, assignment, delegation, or takeover of any of the Contractor's duties, responsibilities, obligations, or performance of same by any entity other than the Contractor, whether through assignment, subcontract, delegation, merger, buyout, or any other mechanism, with or without consideration for any reason whatsoever without the CDC/Authority's express prior written approval, shall be a material breach of the Contract which may result in the termination of the Contract. In the event of such termination, the CDC/Authority shall be entitled to pursue the same remedies against the Contractor as it could pursue in the event of default by the Contractor.

10.11 Confidentiality of Reports

The Contractor shall keep confidential all reports, information and data received, prepared or assembled pursuant to performance hereunder. Such information shall not be made available to any person, firm, corporation or entity without the prior written consent of the CDC/Authority.

10.12 Severability

In the event that any provision herein contained is held to be invalid, void or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of the Contract and shall in no way affect, impair or invalidate any other provision contained herein. If any such provision shall be deemed invalid due to its scope or breadth, such provision shall be deemed valid to the extent of the scope or breadth permitted by law.

10.13 Safety Standards and Accident Prevention

The Contractor shall comply with all applicable Federal, state and local laws governing safety, health and sanitation. The Contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions, on his/her own responsibility, reasonably necessary to protect the life and health of employees on the job and the public and to protect property in connection with the performance of this Contract.

10.14 Drug Free Workplace Act of the State of California

The Contractor certifies under penalty of perjury under the laws of the State of California that the Contractor will comply with the requirements of the Drug-Free Workplace Act of 1990.

10.15 Copyright

No report, maps, or other documents produced in whole or in part under this Contract shall be the subject of an application for copyright by or on behalf of the Contractor. All documents become the property of the CDC/Authority and the CDC/Authority holds all the rights to said data.

10.16 Independent Contractor

The Contractor shall perform the services as contained herein as an independent contractor and shall not be considered an employee of the CDC/Authority, or under CDC/Authority supervision or control. This Contract is by and between the Contractor and the CDC/Authority, and is not intended, and shall not be construed, to create the relationship of agent, servant, employee, partnership, joint venture, or association, between the CDC/Authority and the Contractor.

10.17 Waiver

No breach of any provision hereof can be waived unless in writing. Waiver of any one breach of any provision shall not be deemed to be a waiver of any breach of the same or any other provision hereof.

10.18 Notices

The CDC/Authority shall provide Contractor with notice of any injury or damage arising from or connected with services rendered pursuant to this Contract to the extent that the CDC/Authority has actual knowledge of such injury or damage. The CDC/Authority shall provide such notice within ten (10) days of receiving actual knowledge of such injury or damage.

Notices provided for in this Contract shall be in writing and shall be addressed to the representative of each Party.

Owner:
Community Development Commission/
Housing Authority
Don Swift, Acting Director
700 W. Main St.
Alhambra, CA 91801

Contractor:
Kisba Contracting, Inc.

Shirley Carlton, President
125 Mercury Circle
Pomona, CA 97168

Notices shall be deemed delivered on the third day after posting by U.S. Mail or when delivered in person with written acknowledgement of the receipt thereof. CDC/Authority and Contractor may designate a different address or addresses for notices to be sent by giving written notice of such change of address to all other parties entitled to receive notice.

10.19 Interpretation

No provision of this Contract is to be interpreted for or against either party because that party or that party's legal representative drafted such provision, but this Contract is to be construed as if it were drafted by both parties hereto.

10.20 Employees of Contractor

Workers' Compensation: Contractor understands and agrees that all persons furnishing services to the CDC/Authority pursuant to this Contract are, for the purposes of workers' compensation liability, employees solely of Contractor. Contractor shall bear sole responsibility and liability for providing Workers' Compensation benefits to any person for injury arising from an accident connected with services provided to the CDC/Authority under this Contract.

Professional Conduct: The CDC/Authority does not and will not condone any act, gestures, comments or conduct from the Contractor's employees, agents or subcontractors which may be construed as sexual harassment or any other type of activity or behavior that might be construed as harassment. The CDC/Authority will properly investigate all charges of harassment by residents, employees, agents or subcontractors and is responsible for taking appropriate action after reports of harassment are received by the Contractor.

10.21 Patent Rights

The CDC/Authority will hold all the patent rights with respect to any discovery or invention which arises or is developed in the course of, or under, this Contract.

10.22 Notice to Employees Regarding the Federal Earned Income Credit

The Contractor shall notify its employees, and shall require each subcontractor to notify its employees, that they may be eligible for the Federal Earned Income Credit under the federal income tax laws. Such notice shall be provided in accordance with the requirements set forth in Attachment A, Internal Revenue Service Notice 1015.

10.23 Use of Recycled-Content Paper Products

Consistent with the Board of Supervisors' policy to reduce the amount of solid waste deposited at the County landfills, the Contractor agrees to use recycled-content paper to the maximum extent possible on the project.

10.24 Contractor Responsibility and Debarment

- A. A responsible Contractor is a contractor, consultant, vendor or operating agency who has demonstrated the attribute of trustworthiness, as well as quality, fitness, capacity and experience to satisfactorily perform the contract. It is the policy of the Housing Authority, Commission, and County to conduct business only with responsible contractors.
- B. The Contractor is hereby notified that if the CDC/Authority acquires information concerning the performance of the Contractor on this or other contracts which indicates that the Contractor is not responsible, the CDC/Authority may, in addition to other remedies provided in the contract, debar the Contractor from bidding or proposing on, or being awarded, and/or performing work on CDC/Authority contracts for a specified period of time, which generally will not to exceed five years but may exceed five years or be permanent if warranted by circumstances, and terminate any or all existing contracts the Contractor may have with the CDC/Authority.
- C. The CDC/Authority may debar a contractor, consultant, vendor or operating agency if the Board of Commissioners finds, in its discretion, that the contractor has done any of the following: (1) violated any term of a contract with the Housing Authority, Commission, or County or a nonprofit corporation created by the Housing Authority, Commission, or County, (2) committed an act or omission which negatively reflects on the its quality, fitness or capacity to perform a contract with the Housing Authority, Commission, or County, any other public entity, a nonprofit corporation created by the Housing Authority, Commission, or County, or engaged in a pattern or practice which negatively reflects on same, (3) committed an act or offense which indicates a lack of business integrity or business honesty, or (4) made or submitted a false claim against the Housing Authority, Commission, County, or any other public entity.
- D. If there is evidence that the Contractor may be subject to debarment, the CDC/Authority will notify the Contractor in writing of the evidence, which is the basis for the proposed debarment and will advise the Contractor of the scheduled date for a debarment hearing before the Contractor Hearing Board.
- E. The Contractor Hearing Board will conduct a hearing where evidence on the proposed debarment is presented. The Contractor and/or the Contractor's representative shall be given an opportunity to submit evidence at that hearing. After the hearing, the Contractor Hearing Board shall prepare a tentative proposed decision, which shall contain a recommendation regarding whether

the Contractor should be debarred, and, if so, the appropriate length of time of the debarment. The Contractor and the CDC/Authority shall be provided an opportunity to object to the tentative proposed decision prior to its presentation to the Board of Commissioners.

- F. After consideration of any objections, or if no objections are submitted, a record of the hearing, the proposed decision and any other recommendation of the Contract Hearing Board shall be presented to the Board of Commissioners. The Board of Commissioners shall have the right to modify, deny or adopt the proposed decision and recommendation of the Hearing Board.
- G. If a Contractor has been debarred for a period longer than five years, that Contractor may, after the debarment has been in effect for at least five years, submit a written request for review of the debarment determination to reduce the period of debarment or terminate the debarment. The CDC/Authority may, in its discretion, reduce the period of debarment or terminate the debarment if it finds that the Contractor has adequately demonstrated one or more of the following: (1) elimination of the grounds for which the debarment was imposed; (2) a bona fide change in ownership or management; (3) material evidence discovered after debarment was imposed; or (4) any other reason that is in the best interests of the CDC/Authority.
- H. The Contractor Hearing Board will consider a request for review of the debarment determination only where (1) the Contractor has been debarred for a period longer than five years; (2) the debarment has been in effect for at least five years; and (3) the request is in writing, states one or more of the ground for reduction of the debarment period or termination of the debarment, and includes supporting documentation. Upon receiving an appropriate request, the Contractor Hearing Board will provide notice of the hearing on the request. At the hearing, the Contractor Hearing Board shall conduct a hearing where evidence on the proposed reduction of debarment period or termination of debarment is presented. This hearing shall be conducted and the request for review decided by the Contractor Hearing Board pursuant to the same procedures as for a debarment Hearing.

The Contractor Hearing Board's proposed decision shall contain a recommendation on the request to reduce the period of debarment or terminate the debarment. The Contractor Hearing Board shall present its proposed decision and recommendation to the Board of Commissioners. The Board of Commissioners shall have the right to modify, deny or adopt the proposed decision and recommendation of the Contractor Hearing Board.

- I. These terms shall also apply to subcontractors and subconsultants of County, Housing Authority, or Commission contractors, consultants, vendors and agencies.

10.25 Compliance With Jury Service Program

1. Unless Contractor has demonstrated to the County's satisfaction either that Contractor is not a "Contractor" as defined under the Jury Service Program or that Contractor qualifies for an exception to the Jury Service Program, Contractor shall have and adhere to a written policy that provides that its Employees shall receive from the Contractor, on an annual basis, no less than five days of regular pay for actual jury service. The policy may provide that Employees deposit any fees received for such jury service with the Contractor or that the Contractor deduct from the Employee's regular pay the fees received for jury service.
2. For purposes of this Section, "Contractor" means a person, partnership, corporation or other entity which has a contract with the CDC/Authority or a subcontract with a CDC/Authority contractor and has received or will receive an aggregate sum of \$50,000 or more in any 12-month period under one or more CDC/Authority contracts or subcontracts. "Employee" means any California resident who is a full time employee of Contractor. "Full time" means forty (40) hours or more worked per week, or a lesser number of hours if: 1) the lesser number is a recognized industry standard as determined by the CDC/Authority, or 2) Contractor has a long-standing practice that defines the lesser number of hours as full-time. Full-time employees providing short-term, temporary services of ninety (90) days or less within a 12-month period are not considered full-time for purposes of the Jury Service Program. If Contractor uses any subcontractor to perform services for the CDC/Authority under the Contract, the subcontractor shall also be subject to the provisions of this Section. The provisions of this Section shall be inserted into any such subcontract agreement and a copy of the Jury Service Program shall be attached to the agreement.
3. If Contractor is not required to comply with the Jury Service Program when the Contract commences, Contractor shall have a continuing obligation to review the applicability of its "exception status" from the Jury Service Program, and Contractor shall immediately notify the CDC/Authority if Contractor at any time either comes within the Jury Service Program's definition of "Contractor" or if Contractor no longer qualifies for an exception to the Program. In either event, Contractor shall immediately implement a written policy consistent with the Jury Service Program. The Housing Authority may also require, at any time during the Contract and at its sole discretion, that Contractor demonstrate to the CDC/Authority's satisfaction that Contractor either continues to remain outside of the Jury Service Program's definition of "Contractor" and/or that Contractor continues to qualify for an exception to the Program.
4. Contractor's violation of this Section of the Contract may constitute a material breach of the Contract. In the event of such material breach, the

CDC/Authority may, in its sole discretion, terminate the Contract and/or bar Contractor from the award of future CDC/Authority contracts for a period of time consistent with the seriousness of the breach.

10.26 Notice to Employees regarding The Safely Surrendered Baby Law

The Contractor shall notify and provide to its employees, and shall require each subcontractor to notify and provide to its employees, a fact sheet regarding the Safely Surrendered Baby Law, its implementation in Los Angeles County, and where and how to safely surrender a baby. The fact sheets are set forth in Attachment B of this Contract and are also available on the Internet at www.babysafela.org for printing purposes.

10.27 Contractor's Acknowledgment of Community Development Commission/Housing Authority's Commitment to the Safely Surrendered Baby Law

The Contractor acknowledges that the CDC/Authority places a high priority on the implementation of the Safely Surrendered Baby Law. The Contractor understands that it is the CDC/Authority's policy to encourage all CDC/Authority contractors to voluntarily post the "Safely Surrendered Baby Law" poster in a prominent position at the Contractor's place of business. The Contractor will also encourage its Subcontractors, if any, to post this poster in a prominent position in the Subcontractor's place of business. The County's Department of Children and Family Services will supply the Contractor with the poster to be used.

10.28 Contractor's Charitable Contributions Compliance

The Supervision of Trustees and Fundraisers for Charitable Purpose Act regulates entities receiving or raising charitable contributions. The "Nonprofit Integrity Act of 2004" (SB 1262, Chapter 919) increased Charitable Purpose Act requirements. By requiring Contractors to complete the Charitable Contributions Certification as included in Attachment C, the Authority seeks to ensure that all Authority contractors that receive or raise charitable contributions comply with California law in order to protect the Authority and its taxpayers. A Contractor that receives or raises charitable contributions without complying with its obligations under California law commits a material breach subjecting it to either contract termination or debarment proceedings, or both.

10.29 Contractor's Warranty Of Compliance With County's Defaulted Property Tax Reduction Program

The Contractor acknowledges that the County has established a goal of ensuring that all individuals and businesses that benefit financially from the County through contract are current in paying their property tax obligations (secured and unsecured roll) in order to mitigate the economic burden otherwise imposed upon the County and its taxpayers. Unless the Contractor qualifies for an exemption or exclusion, the Contractor warrants and certifies that to the best of its knowledge it is now in compliance, and during the term of this Contract will maintain compliance, with the County's Defaulted Tax Program pursuant to Los Angeles County Code, Chapter 2.206.

10.30 Termination For Breach Of Warranty To Maintain Compliance With County's Defaulted Property Tax Reduction Program

Failure of the Contractor to maintain compliance with the requirements set forth in Paragraph 10.29, "CONTRACTOR'S WARRANTY OF COMPLIANCE WITH County's DEFAULTED PROPERTY TAX REDUCTION PROGRAM" shall constitute default under this Contract. Without limiting the rights and remedies available to the CDC/Authority under any other provision of this Contract, failure of the Contractor to cure such default within 10 days of notice shall be grounds upon which the CDC/Authority may terminate this contract and/or pursue debarment of the Contractor, pursuant to County's Defaulted Property Tax Reduction Program, to Los Angeles County Code, Chapter 2.206.

10.31 Authorization Warranty

Each party represents and warrants that the person executing this Contract or any amendment thereto for that party is an authorized agent of such party who has actual authority to bind the party to each and every term, condition and obligation of this Contract, and that all requirements of each party have been fulfilled to provide such actual authority.

10.32 Contractor's Compliance with the Community Development Commission/Housing Authority's Smoke Free Policy at All Housing Development Properties

The Contractor represents that it will comply with the CDC/Authority's policy strictly prohibiting smoking on all Housing Authority housing development properties, except at the South Bay Gardens Senior Public Housing Development located at 230 E. 130th Street, Los Angeles, CA 90061, where smoking is permitted only in a specified open area that is at least 25 feet away from a Housing Authority building and is clearly labeled as a "**Smoking Designated Area.**" The Contractor acknowledges and understands that the Housing Authority's smoke free policy applies to all residents, guests, visitors, vendors, contractors, and staff.

10.33 Time Off for Voting

The Contractor shall notify its employees, and shall require each subcontractor to notify and provide to its employees, information regarding the time off for voting law (Elections Code Section 14000). Not less than ten (10) days before every statewide election, every Contractor and subcontractors shall keep posted conspicuously at the place of work, if practicable, or elsewhere where it can be seen as employees come or go to their place of work, a notice setting forth the provisions of Section 14000.

10.34 Compliance with County's Zero Tolerance Human Trafficking

The Contractor acknowledges that the County of Los Angeles has established a Zero Tolerance Human Trafficking Policy prohibiting contractors from engaging in human trafficking.

If a Contractor or member of the Contractor's staff is convicted of a human trafficking offense, the CDC/Authority shall require that the Contractor or member of Contractor's staff be removed immediately from performing services under the

Contract. The CDC/Authority will not be under any obligation to disclose confidential information regarding the offenses other than those required by law.

Disqualification of any member of the Contractor's staff pursuant to this paragraph shall not relieve the Contractor of its obligation to complete all work in accordance with the terms and conditions of this Contract

10.35 Entire Contract

This Contract with attachments constitutes the entire understanding and agreement of the parties.

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IN WITNESS WHEREOF, the parties hereto have executed this Construction Contract on the date and year first written above.

OWNER

COMMUNITY DEVELOPMENT
COMMISSION/HOUSING AUTHORITY
OF THE COUNTY OF LOS ANGELES, A
BODY CORPORATE AND POLITIC

CONTRACTOR

KISBA CONTRACTING, INC.

License Number: 1021128

By: _____

MONIQUE KING-VIEHLAND

Title: EXECUTIVE DIRECTOR

Date: _____

APPROVED AS TO PROGRAM:

By: _____

SHIRLEY CARLTON

Title: PRESIDENT

Date: _____

DON SWIFT

Title: ACTING DIRECTOR, HOUSING
OPERATIONS DIVISION

Date: _____

APPROVED AS TO FORM
Office of County Counsel,
Mary C. Wickham,
County Counsel

BUSINESS ADDRESS

125 Mercury Circle

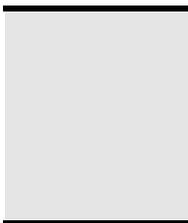
Pomona, CA 97168

Telephone: (909) 598-6328

By: _____

Deputy

CORPORATE SEAL



Required Signatures:

If sole proprietor, one signature of sole proprietor.

If partnership, the signature of at least one general partner authorized to sign contracts on behalf of the partnership.

If Corporation, the signatures of those officers required to sign contracts on behalf of the Corporation, and the Corporate Seal.

APPENDIX B

REQUIRED CONTRACT FORMS

INSERT THE CONTRACT REQUIRED FORMS HERE

APPENDIX C

REQUIRED CONTRACT NOTICES

BACKGROUND AND RESOURCES: CALIFORNIA CHARITIES REGULATION

There is a keen public interest in preventing misuse of charitable contributions. California's "Supervision of Trustees and Fundraisers for Charitable Purposes Act" regulates those raising and receiving charitable contributions. The "Nonprofit Integrity Act of 2004" (SB 1262, Chapter 919) tightened Charitable Purposes Act requirements for charitable organization administration and fundraising.

The Charitable Purposes Act rules cover California public benefit corporations, unincorporated associations, and trustee entities. They may include similar foreign corporations doing business or holding property in California. Generally, an organization is subject to the registration and reporting requirements of the Charitable Purposes Act if it is a California nonprofit public benefit corporation or is tax exempt under Internal Revenue Code § 501(c)(3), and not exempt from reporting under Government Code § 12583. Most educational institutions, hospitals, cemeteries, and religious organizations are exempt from Supervision of Trustees Act requirements.

Key new Charitable Purposes Act requirements affect executive compensation, fundraising practices and documentation. Charities with over \$2 million of revenues (excluding grants and service-contract funds a governmental entity requires to be accounted for) have new audit requirements. Charities required to have audits must also establish an audit committee whose members have no material financial interest in any entity doing business with the charity.

Organizations or persons that receive or raise charitable contributions are likely to be subject to the Charitable Purposes Act. A bidder/proposer on Housing Authority and/or Housing Authority contracts must determine if it is subject to the Charitable Purposes Act and certify either that:

- It is not presently subject to the Act, but will comply if later activities make it subject, or,
- If subject, it is currently in compliance.

RESOURCES

The following resource references are offered to assist bidders/proposers who engage in charitable contributions activities, however, each bidder/proposer is responsible to research and determine its own legal obligations and properly complete the Charitable Contributions Certification form.

In California, supervision of charities is the responsibility of the Attorney General, whose website, <http://caag.state.ca.us/>, contains much information helpful to regulated charitable organizations.

1. LAWS AFFECTING NONPROFITS

The "Supervision of Trustees and Fundraisers for Charitable Purposes Act" is found at California Government Code §§ 12580 through 12599.7. Implementing regulations are found at Title 11, California Code of Regulations, §§ 300 through 312. In California, charitable solicitations ("advertising") are governed by Business & Professions Code §§ 17510 through 17510.95. Regulation of nonprofit corporations is found at Title 11, California Code of Regulations, §§ 999.1 through 999.5. (Amended regulations are pending.) Links to all of these rules are at: <http://caag.state.ca.us/charities/statutes.htm>.

2. SUPPORT FOR NONPROFIT ORGANIZATIONS

Several organizations offer both complimentary and fee-based assistance to nonprofits, including in Los Angeles, the *Center for Nonprofit Management*, 606 S. Olive St #2450, Los Angeles, CA 90014 (213) 623-7080 <http://www.cnmsocal.org/>, and statewide, the *California Association of Nonprofits*, <http://www.canonprofits.org/>. Both organizations' websites offer information about how to establish and manage a charitable organization.

The above information, including the organizations listed, is for informational purposes only. Nothing contained in this sub-section shall be construed as an endorsement by the Housing Authority of such organizations.

COUNTY OF LOS ANGELES
DEFAULTED PROPERTY TAX REDUCTION PROGRAM
(Los Angeles County Code 2.206)

- 2.206.010 Findings and declarations.
- 2.206.020 Definitions.
- 2.206.030 Applicability.
- 2.206.040 Required solicitation and contract language.
- 2.206.050 Administration and compliance certification.
- 2.206.060 Exclusions/Exemptions.
- 2.206.070 Enforcement and remedies.
- 2.206.080 Severability.

2.206.010 Findings and declarations.

The Board of Supervisors finds that significant revenues are lost each year as a result of taxpayers who fail to pay their tax obligations on time. The delinquencies impose an economic burden upon the County and its taxpayers. Therefore, the Board of Supervisors establishes the goal of ensuring that individuals and businesses that benefit financially from contracts with the County fulfill their property tax obligation. (Ord. No. 2009-0026 § 1 (part), 2009.)

2.206.020 Definitions.

The following definitions shall be applicable to this chapter:

- A. "Contractor" shall mean any person, firm, corporation, partnership, or combination thereof, which submits a bid or proposal or enters into a contract or agreement with the County.
- B. "County" shall mean the county of Los Angeles or any public entities for which the Board of Supervisors is the governing body.
- C. "County Property Taxes" shall mean any property tax obligation on the County's secured or unsecured roll; except for tax obligations on the secured roll with respect to property held by a Contractor in a trust or fiduciary capacity or otherwise not beneficially owned by the Contractor.
- D. "Department" shall mean the County department, entity, or organization responsible for the solicitation and/or administration of the contract.
- E. "Default" shall mean any property tax obligation on the secured roll that has been deemed defaulted by operation of law pursuant to California Revenue and Taxation Code section 3436; or any property tax obligation on the unsecured roll that remains unpaid on the applicable delinquency date pursuant to California Revenue and Taxation Code section 2922; except for any property tax obligation dispute pending before the Assessment Appeals Board.
- F. "Solicitation" shall mean the County's process to obtain bids or proposals for goods and services.
- G. "Treasurer-Tax Collector" shall mean the Treasurer and Tax Collector of the County of Los Angeles. (Ord. No. 2009-0026 § 1 (part), 2009.)

2.206.030 Applicability.

This chapter shall apply to all solicitations issued 60 days after the effective date of the ordinance codified in this chapter. This chapter shall also apply to all new, renewed, extended, and/or amended contracts entered into 60 days after the effective date of the ordinance codified in this chapter. (Ord. No. 2009-0026 § 1 (part), 2009.)

2.206.040 Required solicitation and contract language.

All solicitations and all new, renewed, extended, and/or amended contracts shall contain language which:

- A. Requires any Contractor to keep County Property Taxes out of Default status at all times during the term of an awarded contract;
- B. Provides that the failure of the Contractor to comply with the provisions in this chapter may prevent the Contractor from being awarded a new contract; and
- C. Provides that the failure of the Contractor to comply with the provisions in this chapter may constitute a material breach of an existing contract, and failure to cure the breach within 10 days of notice by the County by paying the outstanding County Property Tax or making payments in a manner agreed to and approved by the Treasurer-Tax Collector, may subject the contract to suspension and/or termination. (Ord. No. 2009-0026 § 1 (part), 2009.)

2.206.050 Administration and compliance certification.

- A. The Treasurer-Tax Collector shall be responsible for the administration of this chapter. The Treasurer-Tax Collector shall, with the assistance of the Chief Executive Officer, Director of Internal Services, and County Counsel, issue written instructions on the implementation and ongoing administration of this chapter. Such instructions may provide for the delegation of functions to other departments.
- B. Contractor shall be required to certify, at the time of submitting any bid or proposal to the County, or entering into any new contract, or renewal, extension or amendment of an existing contract with the County, that it is in compliance with this chapter is not in Default on any County Property Taxes or is current in payments due under any approved payment arrangement. (Ord. No. 2009-0026 § 1 (part), 2009.)

2.206.060 Exclusions/Exemptions.

- A. This chapter shall not apply to the following contracts:
 - 1. Chief Executive Office delegated authority agreements under \$50,000;
 - 2. A contract where federal or state law or a condition of a federal or state program mandates the use of a particular contractor;
 - 3. A purchase made through a state or federal contract;
 - 4. A contract where state or federal monies are used to fund service related programs, including but not limited to voucher programs, foster care, or other social programs that provide immediate direct assistance;
 - 5. Purchase orders under a master agreement, where the Contractor was certified at the time the master agreement was entered into and at any subsequent renewal, extension and/or amendment to the master agreement.

6. Purchase orders issued by Internal Services Department under \$100,000 that is not the result of a competitive bidding process.
 7. Program agreements that utilize Board of Supervisors' discretionary funds;
 8. National contracts established for the purchase of equipment and supplies for and by the National Association of Counties, U.S. Communities Government Purchasing Alliance, or any similar related group purchasing organization;
 9. A monopoly purchase that is exclusive and proprietary to a specific manufacturer, distributor, reseller, and must match and inter-member with existing supplies, equipment or systems maintained by the county pursuant to the Los Angeles Purchasing Policy and Procedures Manual, section P-3700 or a successor provision;
 10. A revolving fund (petty cash) purchase pursuant to the Los Angeles County Fiscal Manual, section 4.6.0 or a successor provision;
 11. A purchase card purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, section P-2810 or a successor provision;
 12. A non-agreement purchase worth a value of less than \$5,000 pursuant to the Los Angeles County Purchasing Policy and Procedures Manual, section A-0300 or a successor provision; or
 13. A bona fide emergency purchase pursuant to the Los Angeles County Purchasing Policy and Procedures Manual section P-0900 or a successor provision;
 14. Other contracts for mission critical goods and/or services where the Board of Supervisors determines that an exemption is justified.
- B. Other laws. This chapter shall not be interpreted or applied to any Contractor in a manner inconsistent with the laws of the United States or California. (Ord. No. 2009-0026 § 1 (part), 2009.)

2.206.070 Enforcement and remedies.

- A. The information furnished by each Contractor certifying that it is in compliance with this chapter shall be under penalty of perjury.
- B. No Contractor shall willfully and knowingly make a false statement certifying compliance with this chapter for the purpose of obtaining or retaining a County contract.
- C. For Contractor's violation of any provision of this chapter, the County department head responsible for administering the contract may do one or more of the following:
 1. Recommend to the Board of Supervisors the termination of the contract; and/or,
 2. Pursuant to chapter 2.202, seek the debarment of the contractor; and/or,
 3. Recommend to the Board of Supervisors that an exemption is justified pursuant to Section 2.206.060.A.14 of this chapter or payment deferral as provided pursuant to the California Revenue and Taxation Code. (Ord. No. 2009-0026 § 1 (part), 2009.)

2.206.080 Severability.

If any provision of this chapter is found invalid by a court of competent jurisdiction, the remaining provisions shall remain in full force and effect. (Ord. No. 2009-0026 § 1 (part), 2009.)

HA SAMPLE CONSTRUCTION CONTRACT (REVISED 10-17-17)



Department of the Treasury
Internal Revenue Service

Notice 1015

(Rev. December 2016)

Have You Told Your Employees About the Earned Income Credit (EIC)?

What is the EIC?

The EIC is a refundable tax credit for certain workers.

Which Employees Must I Notify About the EIC?

You must notify each employee who worked for you at any time during the year and from whose wages you did not withhold income tax.

However, you do not have to notify any employee who claimed exemption from withholding on Form W-4, Employee's Withholding Allowance Certificate.

Note: You are encouraged to notify each employee whose wages for 2016 are less than \$53,505 that he or she may be eligible for the EIC.

How and When Must I Notify My Employees?

You must give the employee one of the following.

- The IRS Form W-2, Wage and Tax Statement, which has the required information about the EIC on the back of Copy B.
- A substitute Form W-2 with the same EIC information on the back of the employee's copy that is on Copy B of the IRS Form W-2.
- Notice 797, Possible Federal Tax Refund Due to the Earned Income Credit (EIC).
- Your written statement with the same wording as Notice 797.

If you give an employee a Form W-2 on time, no further notice is necessary if the Form W-2 has the required information about the EIC on the back of the employee's copy. If you give an employee a substitute Form W-2, but it does not have the required information, you must notify

the employee within 1 week of the date the substitute Form W-2 is given. If Form W-2 is required but is not given on time, you must give the employee Notice 797 or your written statement by the date Form W-2 is required to be given. If Form W-2 is not required, you must notify the employee by February 7, 2017.

You must hand the notice directly to the employee or send it by first-class mail to the employee's last known address. You will not meet the notification requirements by posting Notice 797 on an employee bulletin board or sending it through office mail. However, you may want to post the notice to help inform all employees of the EIC. You can download copies of the notice at www.irs.gov/formspubs. Or you can go to www.irs.gov/orderforms to order it.

How Will My Employees Know If They Can Claim the EIC?

The basic requirements are covered in Notice 797. For more detailed information, the employee needs to see Pub. 596, Earned Income Credit (EIC), or the instructions for Form 1040, 1040A, or 1040EZ.

How Do My Employees Claim the EIC?

An eligible employee claims the EIC on his or her 2016 tax return. Even an employee who has no tax withheld from wages and owes no tax may claim the EIC and ask for a refund, but he or she must file a tax return to do so. For example, if an employee has no tax withheld in 2016 and owes no tax but is eligible for a credit of \$800, he or she must file a 2016 tax return to get the \$800 refund.

Notice **1015** (Rev. 12-2016)
Cat. No. 206901

Safely Surrendered



No shame. No blame. No names.

In Los Angeles County: 1-877-BABY SAFE • 1-877-222-9723

www.babysafela.org



HA SAMPLE CONSTRUCTION CONTRACT (REVISED 10-17-17)

In Los Angeles County: 1 877 BABY SAFE 1 877 222 9723

www.babysafela.org

Safely Surrendered *Baby Law*

What is the Safely Surrendered Baby Law?

California's Safely Surrendered Baby Law allows parents or other persons, with lawful custody, which means anyone to whom the parent has given permission to confidentially surrender a baby. As long as the baby is three days (72 hours) of age or younger and has not been abused or neglected, the baby may be surrendered without fear of arrest or prosecution.

How does it work?

A distressed parent who is unable or unwilling to care for a baby can legally, confidentially, and safely surrender a baby within three days (72 hours) of birth. The baby must be handed to an employee at a hospital or fire station in Los Angeles County. As long as the baby shows no sign of abuse or neglect, no name or other information is required. In case the parent changes his or her mind at a later date and wants the baby back, staff will use bracelets to help connect them to each other. One bracelet will be placed on the baby, and a matching bracelet will be given to the parent or other surrendering adult.

What if a parent wants the baby back?

Parents who change their minds can begin the process of reclaiming their baby within 14 days. These parents should call the Los Angeles County Department of Children and Family Services at 1-800-540-4000.

Can only a parent bring in the baby?

No. While in most cases a parent will bring in the baby, the Law allows other people to bring in the baby if they have lawful custody.

Does the parent or surrendering adult have to call before bringing in the baby?

No. A parent or surrendering adult can bring in a baby anytime, 24 hours a day, 7 days a week, as long as the parent or surrendering adult surrenders the baby to someone who works at the hospital or fire station.

Does the parent or surrendering adult have to tell anything to the people taking the baby?

No. However, hospital or fire station personnel will ask the surrendering party to fill out a questionnaire designed to gather important medical history information, which is very useful in caring for the baby. The questionnaire includes a stamped return envelope and can be sent in at a later time.

What happens to the baby?

The baby will be examined and given medical treatment. Upon release from the hospital, social workers immediately place the baby in a safe and loving home and begin the adoption process.

What happens to the parent or surrendering adult?

Once the parent or surrendering adult surrenders the baby to hospital or fire station personnel, they may leave at any time.

Why is California doing this?

The purpose of the Safely Surrendered Baby Law is to protect babies from being abandoned, hurt or killed by their parents. You may have heard tragic stories of babies left in dumpsters or public bathrooms. Their parents may have been under severe emotional distress. The mothers may have hidden their pregnancies, fearful of what would happen if their families found out. Because they were afraid and had no one or nowhere to turn for help, they abandoned their babies. Abandoning a baby is illegal and places the baby in extreme danger. Too often, it results in the baby's death. The Safely Surrendered Baby Law prevents this tragedy from ever happening again in California.

A baby's story

Early in the morning on April 9, 2005, a healthy baby boy was safely surrendered to nurses at Harbor-UCLA Medical Center. The woman who brought the baby to the hospital identified herself as the baby's aunt and stated the baby's mother had asked her to bring the baby to the hospital on her behalf. The aunt was given a bracelet with a number matching the anklet placed on the baby; this would provide some identification in the event the mother changed her mind about surrendering the baby and wished to reclaim the baby in the 14-day period allowed by the Law. The aunt was also provided with a medical questionnaire and said she would have the mother complete and mail back in the stamped return envelope provided. The baby was examined by medical staff and pronounced healthy and full-term. He was placed with a loving family that had been approved to adopt him by the Department of Children and Family Services.



**HA SAMPLE CONSTRUCTION CONTRACT
(REVISED 10-17-17)**

Ley de Entrega de Bebés *Sin Peligro*



Los recién nacidos pueden ser entregados en forma segura al personal de cualquier hospital o cuartel de bomberos del Condado de Los Ángeles

Sin pena. Sin culpa. Sin nombres.

En el Condado de Los Ángeles: 1-877-BABY SAFE • 1-877-222-9723

www.babysafela.org



HA SAMPLE CONSTRUCTION CONTRACT (REVISED 10-17-17)

En el Condado de Los Ángeles: 1-877-BABY SAFE • 1-877-222-9723

www.babysafela.org

Ley de Entrega de Bebés Sin Peligro

¿Qué es la Ley de Entrega de Bebés sin Peligro?

La Ley de Entrega de Bebés sin Peligro de California permite la entrega confidencial de un recién nacido por parte de sus padres u otras personas con custodia legal, es decir cualquier persona a quien los padres le hayan dado permiso. Siempre que el bebé tenga tres días (72 horas) de vida o menos, y no haya sufrido abuso ni negligencia, pueden entregar al recién nacido sin temor de ser arrestados o procesados.

Cada recién nacido se merece la oportunidad de tener una vida saludable. Si alguien que usted conoce está pensando en abandonar a un recién nacido, infórmele que tiene otras opciones. Hasta tres días (72 horas) después del nacimiento, se puede entregar un recién nacido al personal de cualquier hospital o cuartel de bomberos del condado de Los Angeles.

¿Cómo funciona?

El padre/madre con dificultades que no pueda o no quiera cuidar de su recién nacido puede entregarlo en forma legal, confidencial y segura dentro de los tres días (72 horas) del nacimiento. El bebé debe ser entregado a un empleado de cualquier hospital o cuartel de bomberos del Condado de Los Ángeles. Siempre que el bebé no presente signos de abuso o negligencia, no será necesario suministrar nombres ni información alguna. Si el padre/madre cambia de opinión posteriormente y desea recuperar a su bebé, los trabajadores utilizarán brazaletes para poder vincularlos. El bebé llevará un brazaletes y el padre/madre o el adulto que lo entregue recibirá un brazaletes igual.

¿Qué pasa si el padre/madre desea recuperar a su bebé?

Los padres que cambien de opinión pueden comenzar el proceso de reclamar a su recién nacido dentro de los 14 días. Estos padres deberán llamar al Departamento de Servicios para Niños y Familias (Department of Children and Family Services) del Condado de Los Angeles al 1-800-540-4000.

¿Sólo los padres podrán llevar al recién nacido?

No. Si bien en la mayoría de los casos son los padres los que llevan al bebé, la ley permite que otras personas lo hagan si tienen custodia legal.

¿Los padres o el adulto que entrega al bebé deben llamar antes de llevar al bebé?

No. El padre/madre o adulto puede llevar al bebé en cualquier momento, las 24 horas del día, los 7 días de la semana, siempre y cuando entreguen a su bebé a un empleado del hospital o cuartel de bomberos.

¿Es necesario que el padre/madre o adulto diga algo a las personas que reciben al bebé?

No. Sin embargo, el personal del hospital o cuartel de bomberos le pedirá a la persona que entregue al bebé que llene un cuestionario con la finalidad de recabar antecedentes médicos importantes, que resultan de gran utilidad para cuidar bien del bebé. El cuestionario incluye un sobre con el sello postal pagado para enviarlo en otro momento.

¿Qué pasará con el bebé?

El bebé será examinado y le brindarán atención médica. Cuando le den el alta del hospital, los trabajadores sociales inmediatamente ubicarán al bebé en un hogar seguro donde estará bien atendido, y se comenzará el proceso de adopción.

¿Qué pasará con el padre/madre o adulto que entregue al bebé?

Una vez que los padres o adulto hayan entregado al bebé al personal del hospital o cuartel de bomberos, pueden irse en cualquier momento.

¿Por qué se está haciendo esto en California? ?

La finalidad de la Ley de Entrega de Bebés sin Peligro es proteger a los bebés para que no sean abandonados, lastimados o muertos por sus padres. Usted probablemente haya escuchado historias trágicas sobre bebés abandonados en basureros o en baños públicos. Los padres de esos bebés probablemente hayan estado pasando por dificultades emocionales graves. Las madres pueden haber ocultado su embarazo, por temor a lo que pasaría si sus familias se enteraran. Abandonaron a sus bebés porque tenían miedo y no tenían nadie a quien pedir ayuda. El abandono de un recién nacido es ilegal y pone al bebé en una situación de peligro extremo. Muy a menudo el abandono provoca la muerte del bebé. La Ley de Entrega de Bebés sin Peligro impide que vuelva a suceder esta tragedia en California.

Historia de un bebé

A la mañana temprano del día 9 de abril de 2005, se entregó un recién nacido saludable a las enfermeras del Harbor-UCLA Medical Center. La mujer que llevó el recién nacido al hospital se dio a conocer como la tía del bebé, y dijo que la madre le había pedido que llevara al bebé al hospital en su nombre. Le entregaron a la tía un brazaletes con un número que coincidía con la pulsera del bebé; esto serviría como identificación en caso de que la madre cambiara de opinión con respecto a la entrega del bebé y decidiera recuperarlo dentro del periodo de 14 días que permite esta ley. También le dieron a la tía un cuestionario médico, y ella dijo que la madre lo llenaría y lo enviaría de vuelta dentro del sobre con franqueo pagado que le habían dado. El personal médico examinó al bebé y se determinó que estaba saludable y a término. El bebé fue ubicado con una buena familia que ya había sido aprobada para adoptarlo por el Departamento de Servicios para Niños y Familias.



APPENDIX D

HUD SECTION 3

PROVISIONS

SECTION 3 COMPLIANCE PROVISIONS FOR PUBLIC HOUSING ASSISTANCE

All Bidders/Proposers must review the following requirements and conditions:

1. POLICY

The purpose of Section 3 of the Housing and Urban Development Act of 1968, as amended, is to ensure that training, employment, contracting and other economic opportunities generated by HUD financial assistance shall, to the greatest extent feasible, and consistent with existing Federal, State and local laws and regulations, be directed to low- and very low-income persons, particularly those who are recipients of government assistance for housing, and to business concerns which provide economic opportunities to low- and very low-income persons. Section 3 applies to training, employment, contracting and other economic opportunities arising from the expenditure of the following public Housing assistance:

- A. Development assistance provided pursuant to Section 5 of the U.S. Housing Act of 1937 (1937 Act);
- B. Operating assistance provided pursuant to Section 9 of the 1937 Act; and
- C. Modernization assistance provided pursuant to Section 14 of the 1937 Act.

2. SECTION 3 APPLICABILITY

Each recipient of Section 3 covered assistance is responsible for complying with Section 3 requirements, notwithstanding the amount of the assistance provided to the recipient. The Section 3 requirements also apply to all contractors and subcontractors performing work in connection with projects and activities funded by Section 3, regardless of the amount of the contract or subcontract.

3. SECTION 3 GOALS

The recipient of Section 3 covered assistance and its contractors and subcontractors shall, to the greatest extent feasible, meet the following goals:

- A. Training and Employment Goal: Employ Section 3 residents as a percentage of the aggregate new hires as indicated below:
 - (1) 30 percent in FY 1997 and continuing thereafter.
- B. Contracts Goal: Award Section 3 business concerns:
 - (1) At least 10 percent of the total dollar amount of all Section 3 covered contracts for building trades work arising in connection with housing rehabilitation, housing construction and other public construction.

- (2) At least 3 percent of the total dollar amount of all other Section 3 covered contracts.

4. PRIORITY PREFERENCES

- A. In public housing programs, preferences for Section 3 residents in training and employment opportunities shall be given, where feasible, in the following priority to:
 - (1) Residents of the housing development or developments for which the Section 3 covered assistance is expended (category 1 residents);
 - (2) Residents of other housing developments managed by the housing authority that is expending the Section 3 covered housing assistance (category 2 residents);
 - (3) Participants in HUD Youthbuild programs being carried out in the metropolitan area (or non-metropolitan county) in which the Section 3 covered assistance is expended (category 3 residents);
 - (4) Other Section 3 residents.
- B. In public housing programs, preferences for Section 3 business concerns in contracting opportunities shall be given, where feasible, in the following priority to:
 - (1) Business concerns that are 51 percent or more owned by residents of the housing development or developments for which the Section 3 covered assistance is expended, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 1 businesses);
 - (2) Business concerns that are 51 percent or more owned by residents of other housing developments or developments managed by the housing authority that is expending the Section 3 covered assistance, or whose full-time, permanent workforce includes 30 percent of these persons as employees (category 2 businesses);
 - (3) HUD Youthbuild programs being carried out in the metropolitan area (or non-metropolitan county) in which the Section 3 covered assistance is expended (category 3 businesses);
 - (4) Business concerns that are 51 percent or more owned by Section 3 residents, or whose permanent, full-time workforce includes no less than 30 percent Section 3 residents (category 4 businesses), or that subcontract in excess of 25 percent of the total amount of subcontracts to business concerns identified in Paragraphs 4b(1) and 4b(2) above.

5. BIDDER'S EFFORTS TO COMPLY WITH SECTION 3 REQUIREMENTS

- A. Examples of the bidder's efforts to offer training and employment opportunities to Section 3 residents.

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- (1) Entering into "first source" hiring agreements with organizations representing Section 3 residents.
- (2) Sponsoring a HUD-certified "Step-Up" employment and training program for Section 3 residents.
- (3) Establishing training programs, which are consistent with the requirements of the Department of Labor, for public and Indian housing residents and other Section 3 residents in the building trades.
- (4) Advertising the training and employment positions by distributing flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) to every occupied dwelling unit in the housing development or developments where category 1 and category 2 persons reside.
- (5) Advertising the training and employment positions by posting flyers (which identify the positions to be filled, the qualifications required, and where to obtain additional information about the application process) in the common areas or other prominent areas of the housing development or developments. For housing authorities, post such advertising in the housing development or developments where category 1 or category 2 persons reside; for all other recipients, post such advertising in the housing development or developments and transitional housing in the neighborhood or service area of the Section 3 covered project.
- (6) Contacting resident councils, resident management organizations, or other resident organizations, where they exist, in the housing development or developments where category 1 or category 2 persons reside, and community organizations in HUD-assisted neighborhoods, to request the assistance of these organizations in notifying residents of the training and employment positions to be filled.
- (7) Sponsoring (scheduling, advertising, financing or providing in-kind services) a job informational meeting to be conducted by a housing authority or contractor representative or representatives at a location in the housing development or developments where category 1 or category 2 persons reside or in the neighborhood or service area of the Section 3 covered project.
- (8) Arranging assistance in conducting job interviews and completing job applications for residents of the housing development or developments where category 1 or category 2 persons reside and in the neighborhood or service area in which a Section 3 project is located.
- (9) Arranging for a location in the housing development or developments where category 1 persons reside, or the neighborhood or service area of the project, where job applications may be delivered to and collected by a recipient or contractor representative or representatives.
- (10) Conducting job interviews at the housing development or developments where category 1 or category 2 persons reside, or at a location within the neighborhood or service area of the Section 3 covered project.

- (11) Contacting agencies administering HUD Youthbuild programs, and requesting their assistance in recruiting HUD Youthbuild program participants for the housing authority's or contractor's training and employment positions.
- (12) Consulting with State and County local agencies administering training programs funded through JTPA or Joblinks, probation and parole agencies, unemployment compensation programs, community organizations and other officials or organizations to assist with recruiting Section 3 residents for the housing authority's or contractor's training and employment positions.
- (13) Advertising the jobs to be filled through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
- (14) Employing a job coordinator, or contracting with a business concern that is licensed in the field of job placement (preferably one of the Section 3 business concerns), that will undertake, on behalf of the housing authority, other recipient or contractor, the efforts to match eligible and qualified Section 3 residents with the training and employment positions that the housing authority or contractor intends to fill.
- (15) For a housing authority, employing Section 3 residents directly on either a permanent or a temporary basis to perform work generated by Section 3 assistance. (This type of employment is referred to as "force account labor" in HUD's Indian housing regulations.)
- (16) Where there are more qualified Section 3 residents than there are positions to be filled, maintaining a file of eligible qualified Section 3 residents for future employment positions.
- (17) Undertaking job counseling, education and related programs in association with local educational institutions.
- (18) Undertaking such continued job training efforts as may be necessary to ensure the continued employment of Section 3 residents previously hired for employment opportunities.
- (19) After selection of bidders but prior to execution of contracts, incorporating into the contract a negotiated provision for a specific number of public housing or other Section 3 residents to be trained or employed on the Section 3 covered assistance.
- (20) Coordinating plans and implementation of economic development (e.g., job training and preparation, business development assistance for residents) with the planning for housing and community development.

B. Examples of the bidder's efforts to award contracts to Section 3 business concerns.

- (1) Utilizing procurement procedures for Section 3 business concerns similar to those provided in 24 CFR Part 905 for business concerns owned by Native Americans.
- (2) In determining the responsibility of potential contractors, consider their record of Section 3 compliance as evidenced by past actions and their current plans for the pending contract.

- (3) Contacting business assistance agencies, minority contractors associations and community organizations to inform them of contracting opportunities and requesting their assistance in identifying Section 3 businesses which may solicit bids or proposals for contracts for work in connection with Section 3 covered assistance.
- (4) Advertising contracting opportunities by posting notices, which provide general information about the work to be contracted and where to obtain additional information, in the common areas or other prominent areas of the housing development or developments owned and managed by the housing authority.
- (5) For housing authorities, contacting resident councils, resident management corporations, or other resident organizations, where they exist, and requesting their assistance in identifying category 1 and category 2 business concerns
- (6) Providing written notice to all known Section 3 business concerns of the contracting opportunities. This notice should be in sufficient time to allow the Section 3 business concerns to respond to the bid invitations or request for proposals.
- (7) Following up with Section 3 business concerns that have expressed interest in the contracting opportunities by contacting them to provide additional information on the contracting opportunities.
- (8) Coordinating pre-bid meetings at which Section 3 business concerns could be informed of upcoming contracting and subcontracting opportunities.
- (9) Carrying out workshops on contracting procedures and specific contract opportunities in a timely manner so that Section 3 business concerns can take advantage of upcoming contracting opportunities, with such information being made available in languages other than English where appropriate.
- (10) Advising Section 3 business concerns as to where they may seek assistance to overcome limitations such as inability to obtain bonding, lines of credit, financing, or insurance.
- (11) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways to facilitate the participation of Section 3 business concerns.
- (12) Where appropriate, breaking out contract work items into economically feasible units to facilitate participation by Section 3 business concerns.
- (13) Contacting agencies administering HUD Youthbuild programs, and notifying these agencies of the contracting opportunities.
- (14) Advertising the contracting opportunities through trade association papers and newsletters, and through the local media, such as community television networks, newspapers of general circulation, and radio advertising.
- (15) Developing a list of eligible Section 3 business concerns.

- (16) For housing authorities, participating in the "contracting with Resident-Owned Businesses" program provided under 24 CFR Part 963.
- (17) Establishing or sponsoring programs designed to assist residents of public or Indian housing in the creation and development of resident-owned businesses.
- (18) Establishing numerical goals (number of awards and dollar amount of contracts) for award of contracts to Section 3 business concerns.
- (19) Supporting businesses, which provide economic opportunities to low income persons by linking them to the support services available through the Small Business Administration, the Department of Commerce and comparable agencies at the State and local levels.
- (20) Encouraging financial institutions, in carrying out their responsibilities under the Community Reinvestment Act, to provide no or low interest loans for providing working capital and other financial business needs.
- (21) Actively supporting joint ventures with Section 3 business concerns.
- (22) Actively supporting the development or maintenance of business incubators, which assist Section 3 business concerns.

6. SECTION 3 RESPONSIVENESS

A bidder/proposer must demonstrate responsiveness to Section 3 requirements by stating that they are a qualified Section 3 business concern or that they must declare an intent to comply with Section 3 requirements. To demonstrate responsiveness, the bidder/proposer must do one of the following:

- A. Submit a *Section 3 Business Concern Certification* form with the bid/proposal, stating that the bidder/proposer qualifies as a Section 3 business concern because the business:
 - (1) Is 51% owned by low-income residents, or that
 - (2) 30% or more of its permanent full-time employees are low-income residents, and
 - (3) Provide the *Section 3 Resident Certification form(s)* for each qualified employee.

OR

- B. Submit a Declaration of Intent to Comply with Section 3 Requirements with their bid/proposal.

7. SECTION 3 BID PREFERENCE

Invitation for Bids (IFB) Solicitations

Preferences are awarded only to bidders/proposers who are Section 3 business concerns and submit a Section 3 Business Concern Certification form with supporting documentation. The means for applying the preference depends on the method of procurement.

Preference for contract award will be given to bidders who are Section 3 business concerns, provided that the bid is reasonable. A reasonable bid is a bid received from a Section 3 business concern that is within a Zone of Consideration compared to the lowest bid from any responsive and responsible bidder. The Zone is determined by combining the actual lowest bid amount with the “X” factor. The “X” factor is the lesser of:

- A. The percentage (expressed in dollars) listed in the chart below, OR,
- B. The actual dollar amount listed on the chart below.

Zone of Consideration

If the Lowest Bid is		The “X” FACTOR is the Lesser than	
At Least	But Less Than		
\$10,000	\$100,000	10%	\$9,000
\$100,000	\$200,000	9%	\$16,000
\$200,000	\$300,000	8%	\$21,000
\$300,000	\$400,000	7%	\$24,000
\$400,000	\$500,000	6%	\$25,000
\$500,000	\$1,000,000	5%	\$40,000
\$1,000,000	\$2,000,000	4%	\$60,000
\$2,000,000	\$4,000,000	3%	\$80,000
\$4,000,000	\$7,000,000	2%	\$105,000
\$7,000,000	NO LIMIT	1.5%	NO LIMIT

Request for Proposal (RFP) or Request for Statement of Qualifications (RFSQ) Solicitations

At least 15% of the total evaluation points must be given to Section 3 business concerns. Proposers who are not Section 3 business concerns, but demonstrate a commitment to Section 3 goals are considered responsive to the RFP, but do not receive preference points in the evaluation of their proposal.

8. SECTION 3 COMPLAINT PROCEDURES

A complaint may be filed by Section 3 residents, Section 3 business concerns, or parties alleging noncompliance with the Section 3 regulations by the recipient or contractor.

A. Internal Section 3 Complaint Procedure

In an effort to resolve complaints generated by non-compliance through an internal process, the Commission encourages submission of such complaints to its Section 3 Compliance Officer as follows:

- (1) Complaints of non-compliance should be filed in writing and must contain the name of the complainant and brief description of the alleged violation of 24 CFR135.
- (2) Complaints must be filed within thirty (30) calendar days after the complainant becomes aware of the alleged violation.
- (3) An investigation will be conducted if complaint is found to be valid. The Section 3 Compliance Officer will conduct an informal, but thorough investigation affording all interested parties, if any, an opportunity to submit testimony and/or evidence pertinent to the complaint.
- (4) The Section 3 Compliance Officer will provide written documentation detailing the findings of the Commission's investigation. The Commission will review the findings for accuracy and completeness before releasing to complainants. The findings will be made available no later than thirty (30) days after the filing of the complaint.

B. HUD Section 3 Complaint Procedure

If complainants wish to have their concerns considered outside of the Commission, a complaint may be filed with the Assistant Secretary for Fair Housing and Equal Opportunity of United State Department of Housing and Urban Development (Assistant Secretary). Complaints are reviewed and investigated by the Assistant Secretary and, where appropriate, voluntary resolutions are sought. Those complaints that are not resolved voluntarily may result in an administrative hearing. A complaint alleging a violation of Section 3 requirements shall be processed as follows.

- (1) A complaint must be filed with the Assistant Secretary for Fair Housing and Equal Opportunity, U.S. Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, D.C., 20410.
- (2) A complaint must be received not later than 180 days from the date of the action or omission upon which the complaint is based, unless the time for filing is extended by the Assistant Secretary for good cause shown.
- (3) Each complaint must be in writing, signed by the complainant, and include:
 - The complainant's name and address;
 - The name and address of the respondent; and
 - A description of the acts or omissions by the respondent that is sufficient to inform the Assistant Secretary of the nature and date of the alleged noncompliance.
- (4) A complainant may provide information to be contained in a complaint by telephone to HUD or any HUD Field Office, and HUD will reduce the information provided by telephone to writing on the prescribed complaint form and sent the form to the complainant for signature.

9. RECORDKEEPING

- A. A contractor that is awarded a Section 3 covered contract must maintain all records, reports, and other documents demonstrating its efforts to achieve the Section 3 goals for training and employment and for contracts. This includes the contractor's subcontracting activities to achieve Section 3 goals. Such records shall identify the name and business address of each Section 3 subcontractor or vendor and the total dollar amount actually paid each Section 3 subcontractor or vendor with supporting documents.

- B. Upon completion of the contract, the contractor will be required to prepare a Section 3 Contractor's Compliance Report and submit it to the Commission. Where the term of a contract extends beyond a fiscal year (7/1–6/30), the contractor/subcontractor shall submit a Section 3 Contractor's Compliance Report to report Section 3 accomplishments by July 15 of each fiscal year to the Commission.

APPENDIX E

FEDERAL LABOR STANDARDS PROVISIONS

Federal Labor Standards Provisions

U.S. Department of Housing and Urban Development Office of Labor Relations

Applicability

~~The Project or Program to which the construction work~~ covered by this contract pertains is being assisted by the United States of America and the following Federal Labor Standards Provisions are included in this Contract pursuant to the provisions applicable to such Federal assistance.

A. 1. (i) Minimum Wages. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR Part 3), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics. Contributions made or costs reasonably anticipated for bona fide fringe benefits under Section I(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of 29 CFR 5.5(a)(1)(iv); also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs, which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under 29 CFR 5.5(a)(1)(ii) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible, place where it can be easily seen by the workers.

(ii) (a) Any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. HUD shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(b) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and HUD or its designee agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by HUD or its designee to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, D.C. 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB control number 1215-0140.)

(c) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and HUD or its designee do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), HUD or its designee shall refer the questions, including the views of all interested parties and the recommendation of HUD or its designee, to the Administrator for determination.

The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise HUD or its designee or will notify HUD or its designee within the 30-day period that additional time is necessary. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

(d) The wage rate (including fringe benefits where appropriate) determined pursuant to subparagraphs (1)(ii)(b) or (c) of this paragraph, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part

of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program. (Approved by the Office of Management and Budget under OMB Control Number 1215-0140.)

2. Withholding. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other Federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee or helper, employed or working on the site of the work, all or part of the wages required by the contract, HUD or its designee may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased. HUD or its designee may, after written notice to the contractor, disburse such amounts withheld for and on account of the contractor or subcontractor to the respective employees to whom they are due. The Comptroller General shall make such disbursements in the case of direct Davis-Bacon Act contracts.

3. (i) Payrolls and basic records. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in Section 1(b)(2)(B) of the Davis-bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5 (a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in Section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been

communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs. (Approved by the Office of Management and Budget under OMB Control Numbers 1215-0140 and 1215-0017.)

(ii) (a) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH-347 is available for this purpose from the Wage

and Hour Division Web site at <http://www.dol.gov/esa/whd/forms/wh347instr.htm> or its successor site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to HUD or its designee if the agency is a party to the contract, but if the agency is not such a party, the contractor will submit the payrolls to the applicant sponsor, or owner, as the case may be, for transmission to HUD or its designee, the contractor, or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this subparagraph for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission

to HUD or its designee. (Approved by the Office of Management and Budget under OMB Control Number 12150149.)

(b) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5 (a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR Part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(c) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by subparagraph A. 3. (ii)(b).

(d) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under Section 1001 of Title 18 and Section 231 of Title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under subparagraph A.3.(i) available for inspection, copying, or transcription by authorized representatives of HUD or its designee or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, HUD or its designee may, after written notice to the contractor, sponsor, applicant or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. Apprentices and Trainees.

(i) **Apprentices.** Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who

is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable

classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) **Trainees.** Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by

the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity. The utilization of apprentices, trainees and journeymen under 29 CFR Part 5 shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR Part 30.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR Part 3 which are incorporated by reference in this contract

6. Subcontracts. The contractor or subcontractor will insert in any subcontracts the clauses contained in subparagraphs 1 through 11 in this paragraph A and such other clauses as HUD or its designee may by appropriate instructions require, and a copy of the applicable prevailing wage decision, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in this paragraph.

7. Contract termination; debarment. A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. Compliance with Davis-Bacon and Related Act Requirements. All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR Parts 1, 3, and 5 are herein incorporated by reference in this contract

9. Disputes concerning labor standards. Disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR Parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and HUD or its designee, the U.S. Department of Labor, or the employees or their representatives.

10. (i) Certification of Eligibility. By entering into this contract the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be

awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of Section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1) or to be awarded HUD contracts or participate in HUD programs pursuant to 24 CFR Part 24.

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001. Additionally, U.S. Criminal Code, Section 1 01 0, Title 18, U.S.C., "Federal Housing Administration transactions", provides in part: "Whoever, for the purpose of . . . influencing in any way the action of such Administration makes, utters or publishes any statement knowing the same to be false shall be fined not more than \$5,000 or imprisoned not more than two years, or both."

11. Complaints, Proceedings, or Testimony by Employees. No laborer or mechanic to whom the wage, salary, or other labor standards provisions of this Contract are applicable shall be discharged or in any other manner discriminated against by the Contractor or any subcontractor because such employee has filed any complaint or instituted or caused to be instituted any proceeding or has testified or is about to testify in any proceeding under or relating to the labor standards applicable under this Contract to his employer.

B. Contract Work Hours and Safety Standards Act. The provisions of this paragraph B are applicable where the amount of the prime contract exceeds \$100,000. As used in this paragraph, the terms "laborers" and "mechanics" include watchmen and guards.

(1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which the individual is employed on such work to work in excess of 40 hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of 40 hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in subparagraph (1) of this paragraph, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (1) of this paragraph, in the sum of \$25 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of 40 hours without payment of the overtime wages required by the clause set forth in sub paragraph (1) of this paragraph.

(3) Withholding for unpaid wages and liquidated damages. HUD or its designee shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contract, or any other Federally-assisted contract subject to the Contract Work Hours and Safety Standards Act which is held by the same prime contractor such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (2) of this paragraph.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in subparagraph (1) through (4) of this paragraph and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in subparagraphs (1) through (4) of this paragraph.

C. Health and Safety. The provisions of this paragraph C are applicable where the amount of the prime contract exceeds \$100,000.

(1) No laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction safety and health standards promulgated by the Secretary of Labor by regulation.

(2) The Contractor shall comply with all regulations issued by the Secretary of Labor pursuant to Title 29 Part 1926 and failure to comply may result in imposition of sanctions pursuant to the Contract Work Hours and Safety Standards Act, (Public Law 91-54, 83 Stat 96). 40 USC 3701 et seq.

(3) The contractor shall include the provisions of this paragraph in every subcontract so that such provisions will be binding on each subcontractor. The contractor shall take such action with respect to any subcontractor as the Secretary of Housing and Urban Development or the Secretary of Labor shall direct as a means of enforcing such provisions.

APPENDIX F

GENERAL WAGE DECISION

INSERT THE APPLICABLE GENERAL WAGE DECISION HERE

APPENDIX G

TECHNICAL SPECIFICATIONS

INSERT THE TECHNICAL SPECIFICATIONS HERE